

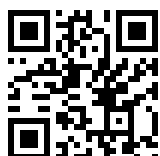
STUDY

Requested by the ECON committee



10 years of parliamentary scrutiny over the Single Supervisory Mechanism

Are current transparency
and accountability mechanisms
adequate for the next legislative term?



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Abstract

We first discuss why and how banking supervisors should be held accountable for their activities, then consider the case of the ECB /SSM to report on the academic debate on its faults and merits. We also review the main accountability channels between the ECB and the EP, showing how they have been used since 2014. Finally, we outline some possible steps to improve the ECB's accountability in the short term.

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LIST OF ABBREVIATIONS

BCBS	Basel Committee on Banking Supervision
BUWG	Banking Union Working Group
CRD	Capital Requirements Directive (Directive 2013/36/EU)
D/SSR	Directorate Supervisory Strategy and Risk
ECB	European Central Bank
ECON	Committee on Economic and Monetary Affairs
EP	European Parliament
LSIs	Less Significant Institutions
MEP	Member of the European Parliament
NPLs	Non-performing loans
OECD	Organisation for Economic Cooperation and Development
Q&As	Questions and answers
SIs	Significant institutions
SREP	Supervisory Review and Evaluation Process
SRM	Single Resolution Mechanism
SSB	Single Supervisory Board
SSM	Single Supervisory Mechanism
TFEU	Treaty on the Functioning of the European Union

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EXECUTIVE SUMMARY

Ten years ago, the European Union created a Single Supervisory Mechanism (“SSM”) that was primarily aimed at banks operating in the euro area, but open to all Member States. Having weathered a worldwide pandemic, a long-lasting military conflict in Eastern Europe and a wave of bank failures spanning from the US to Switzerland, the SSM can be considered a success. There is, however, a widespread belief that **further improvements could (and should) be explored, e.g., in terms of how the ECB is held accountable for its actions by other EU institutions**, including the European Parliament (“EP”).

The independence and accountability of banking supervisors has been a contentious issue long before the SSM was created. **Independence reduces the risk of conflicts of interest and political meddling**: politically independent supervisors have a higher credibility in the markets, and this translates into a sounder banking system. However, supervisors also need to be held democratically accountable in the exercise of their powers and discretionary choices. **Accountability** not only guarantees some much-needed checks and balances, but also **legitimizes the existence of independent agencies in the citizens’ eyes**.

Two important tools to enforce accountability are **transparency and performance control**. The former makes supervisors accountable towards all interested stakeholders and the public opinion at large. The latter refers to the fact that some “yardsticks” are required, against which to measure how the supervisor’s obligations are being discharged. Accountability arrangements for banking supervisors may prove **more difficult to design than in the case of, say, central banks**; in fact, while the latter’s ability to achieve monetary policy objectives (e.g., in keeping inflation close to a target rate) can be objectively monitored at all times, the effectiveness of the former prompts for a subjective appraisal, and can only be measured with certainty when its inadequacies are made apparent by a major crisis.

The advent of the SSM has prompted a new wave of studies on accountability, given the uniqueness of the institutional arrangements put in place to preserve the independence of the ECB’s supervisory functions. Several **studies have raised doubts on the ECB’s ability to guarantee adequate levels of transparency and democratic legitimacy**. Some authors have even argued for the need of amendments to the EU Treaties to enhance accountability; others have highlighted “a gap in terms of the ability of the European Parliament to assign consequences to the ECB’s conduct”. A situation where accountability largely relies on the ECB’s willingness to present a self-critical picture of its actions has sometimes been depicted as a “democratic deficit”. However, other studies have found that the transparency levels guaranteed by the ECB on its supervisory actions are comparatively high when compared to other agencies, and that the SSM’s rules on independence and accountability largely meet the principles designed by the Basel Committee on Banking Supervision. **Positive assessments** have also been motivated with the fact that the ECB is accountable to a “complex web” of EU institutions, and this variety keeps its power in check while respecting its independence.

The legal status of the ECB’s supervisory functions *vis à vis* the EP and other EU institutions reflects the **special regime that was awarded to the central bank by the Treaties**; members of the ECB’s decision bodies are forbidden to seek or take instructions from other Union institutions and from Member States. The SSM Regulation stipulates that the ECB should be accountable for the exercise of its supervisory tasks towards the EP and outlines a set of accountability tools, ranging from regular reporting to the duty of answering questions asked by MEPs. The operation of those tools is regulated in greater detail by an Interinstitutional Agreement, where several interaction channels are foreseen.

When one looks at **how such channels have been used in practice**, the following considerations apply:

- the ECB's **annual reports** on its supervisory activities involve the provision of some previously undisclosed details on the SSM's operation, but mostly draw upon pre-existing publications, including e.g. the stress tests' results. The EP's annual reports on the banking union are short resolutions and mostly consist of high-level recommendations; while they may include indications on future regulatory priorities, such indications sometimes fail to translate into law;
- the topics discussed during the **public meetings** held by the Chair of the Single Supervisory Board ("SSB") with the EP's ECON Committee have evolved over time, with less discussions regarding the setup and internal organisation of the SSM or bank-specific issues, and more room given to broader, policy-oriented matters such as non-performing loans ("NPLs"), crypto-assets and climate-related risks. The questions asked by MEPs have gradually moved from "one-off" events, such as State aid plans and stress tests, to regulatory developments and priorities. Some MEPs have complained about the limited time available for follow-up questions and the rules of the hearings have been changed in an attempt to accommodate these concerns;
- there are no public accounts of **in camera meetings**, due to their confidential nature. They are usually attended by a small number of participants and MEPs have occasionally expressed satisfaction and gratitude for the contents of those informal confrontations;
- after becoming more and more frequent in the first years of the SSM, **written questions by MEPs to the SSB Chair** have been seldom used in the most recent period. While first-round questions include a considerable share of requests that directly impinge on accountability (e.g., requests for justifications), follow-up letters focus mainly on information requests. More than one third of the total requests addresses institution-specific or country-specific issues, suggesting that written questions are (also) used by some MEPs as a communication tool *vis à vis* voters and lobbies, to show that a politically sensitive issue has been raised with the supervisor, even if that leads to no practical consequences;
- **access to SSB minutes** is provided to MEPs via a "secure reading room", where they are not allowed to make copies. Their contents are technical in nature and details are often redacted, making them difficult to understand. They are covered by confidentiality, meaning that MEPs find it hard to use them in public queries and requests for justifications addressed to the ECB; this makes it impossible for an outsider to evaluate the role they play in enforcing accountability;
- **access to draft regulations**, decisions, guidelines and recommendations that the ECB is about to issue must be granted to MEPs, who may then submit comments in parallel with public consultations. This interaction channel, while being mostly formal (as the ECB must not wait for the EP's comments before sharing drafts with the public) has sometimes led to lively confrontations between the SSM and MEPs. This was the case of the ECB's "addendum" on NPLs in 2017: the ECON Committee and the president of the EP objected to a draft text where "supervisory expectations" were stated in such a general way that the SSB was acting as a *de facto* legislator. This led to changes by the ECB which, however, did not overhaul the addendum's overall logic. Furthermore, in 2019 the EP approved an amendment to the Capital Requirements Directive limiting the ECB's ability to impose "blanket" capital requirements addressing industry-wide objectives (like those foreshadowed in the addendum).

After taking stock of the available accountability channels and how they were used in the last ten years, we outline **some possible avenues to improve the interaction** between the EP and the SSM. In brief:

- we acknowledge that any effort aimed at increasing the ECB's accountability is a **constrained optimisation exercise**, due to the fact that some legislative levers are difficult to use, at least in the short term. In fact, the ECB's independence is enshrined in the Treaties while the SSM Regulation, having been adopted pursuant to Article 127(6) TFEU, is subject to a special legislative procedure. Accordingly, the best **short-term options rely on the EP's and ECB's willingness to strengthen relationships** while recognising each other's prerogatives;
- we rank the existing interaction channels by their degree of technicality and formalism/publicity and find that **public/formal/high-level accountability forums have come under increasing criticism over time**. This includes: public hearings, which, due to time constraints, rarely allow for effective follow-up questions and leave plenty of room for elusive replies; letters to the SSB Chair, which have experienced a dramatic drop in usage; annual reports, which are mostly aimed at the general public and therefore do not lend themselves to constructive interaction on thorny issues. We therefore suggest that **the EP and the SSB Chair increasingly focus on informal interactions** where supervisory practices can be discussed in depth;
- such interactions should **rely on the participation of a small group of ECB and EP experts who can commit enough time and effort**. On the ECB's side, a significant contribution may come from functions (such as the Directorate Supervisory Strategy and Risk) responsible for designing the strategy and priorities of supervision and for promoting the quality/consistency of supervisory outcomes; on the EP's side, this could lead to an enhanced role for the Banking Union Working Group and an increased involvement of ECON's expert panels (which, could e.g., help MEPs to review redacted materials received from the SSM, or submit one-page descriptions of emerging topics and vulnerabilities that the EP may want to raise with the ECB). This kind of arrangements would also **increase the Parliament's capacity to provide in-depth feedback within short time windows**, including on draft acts and reports before they are shared with the general public;
- bearing in mind the special independence regime enjoyed by the ECB, the EP should create suitable incentives for it to engage in a deeper dialogue with MEPs, **looking for topics where the SSM has a real interest in entertaining a closer relationship with lawmakers**. Areas for interaction and collaboration should be chosen in such a way that the SSB Chair feels that committing time and resources to dialogue-enhancing activities is likely to prove a fruitful investment that is in the best interest of his/her supervisory mandate;
- as the accountability channels dictated by laws and interinstitutional agreements - together with the possibility of invoking confidentiality reasons to withhold information - leave ample room for discretion on the ECB's side, the SSB Chair's willingness to share information with the EP, and the way he/she addresses its accountability duties in practice, end up playing a paramount role. To ensure that the appropriate incentives are in place, **ways should be sought to inform the public about the Parliament's assessment of the SSB Chair's attitude towards accountability**, possibly by including an *ad hoc* section in the EP's Banking Union report when he/she is halfway of his/her term of office. Such an assessment should be as objective and reasoned as possible; it should take the form of a scorecard where the various aspects affecting the quality of the SSM/EP interaction are evaluated based on how they compare with past standards. Positive developments should be openly recognised, creating a benchmark for assessing future behaviours and ensuring that improvements are not reversed.

1. FOREWORD

Ten years ago, the European Union created a Single Supervisory Mechanism (“SSM”) that was primarily aimed at banks operating in the euro area but open to all Member States. As is often the case with EU reforms, its design entailed a sophisticated exercise of institutional engineering, bringing together national supervisors, the central bank, European supervisory agencies and domestic stakeholders in an attempt to minimise risks that the new experiment might succumb to political meddling, or lead to an uncontrolled technocratic shift.

Having weathered a worldwide pandemic, a long-lasting military conflict in Eastern Europe and a wave of bank failures spanning from the US to Switzerland, the SSM can be considered a success and a strong premise for further integration in EU banking. A crucial role in ensuring such a result has been played by the rules on independence and accountability of the new supervisor, which have ensured democratic legitimacy while keeping undue external pressures at bay.

When it comes to accountability, however, there is a widespread belief that further improvements could (and should) be explored. Celebrating the ten years of the SSM therefore also provides an opportunity to review how parliamentary scrutiny on the ECB’s supervisory functions took place in practice, and to discuss possible ways ahead.

This paper starts by discussing why and how banking supervisors should be held accountable for their activities (§2.1), then moves to the specific case of the SSM¹ to report on the lively debate that has taken place among scholars in the last decade (§2.2). It then enumerates the main accountability channels between the ECB and the EP dictated by law and interinstitutional agreements (§3.1) and reviews how those channels have been used in practice since 2014 (§3.2). The last part (§4) outlines some possible steps that look worth exploring, in order to improve the interaction between the EP and the SSM with a view to enhancing and strengthening accountability.

2. THE ACCOUNTABILITY OF BANKING SUPERVISORS AND THE CASE OF THE ECB

The independence and accountability of banking supervisors has been a contentious issue long before the SSM was put in place. The latter’s advent further ignited this debate, due to the uniqueness of the institutional setup adopted by the European Union.

In this paragraph, we first provide a general discussion of the concepts of independence and accountability of banking supervisors (§2.1), then move to the specific case of the SSM to review various academic analyses where the its strengths and weaknesses, in terms of democratic accountability, have been assessed (§2.2).

2.1. Independence and accountability

Independence has always been considered a desirable feature of banking supervision, as it reduces the risk of conflicts of interest and political meddling. E.g., (Donzé 2006), based on an empirical analysis of 30 OECD countries, finds that politically independent banking supervisors (as measured by a composite

¹ In order to be as specific and detailed as possible, we only focus on interactions between the EP and the SSM. Accountability mechanisms regarding the Single Resolution Mechanism will not be explicitly covered (see e.g. Zeitlin and Brito Bastos 2020, for a thorough discussion), although some of our conclusions also apply to the latter. Furthermore, we are going to restrain our analysis to the SSM’s accountability to the European Parliament. We are aware that – in order to assess the effectiveness of the arrangements governing the ECB’s liability towards other EU institutions and the general public – a comprehensive approach would be required, which considers all forms of political, administrative and judicial accountability. However, such an analysis would go beyond the scope of this paper.

index that accounts for appointing procedures, goals, available instruments and control over funding) have a higher credibility in markets, and this translates into higher ratings of banking system soundness. (Barth et al. 2013) find that stronger supervisory powers are not significantly related to greater bank efficiency unless they are accompanied by independence. (García Osma, Mora, and Porcuna-Enguix 2019) use the mandatory adoption of a new accounting standard by European banks in 2005 as a natural experiment showing that independent supervisors (as measured by Donzé's index) are better equipped to curb opportunistic behaviours by banks ("income smoothing") in setting up and using loan loss provisions.

Conflicts of interest, however, may not only follow from external pressures, but also from the fact that supervisors pursue multiple, potentially diverging objectives (an example being price stability when banking supervision is entrusted to central banks). While it remains to be seen whether price stability and financial stability really are conflicting goals², this has led several countries to grant supervisory tasks to *ad hoc* agencies that do not depend on the central bank³, and explains why the Single Supervisory Board of the ECB enjoys a special independence regime, whereby its decisions can only be rejected – but may not be amended – by the Bank's Governing Council (leading to an institutional *unicum*: an internally independent supervisor nested within an independent central bank)⁴.

If supervisors must operate independently from political influence in order to fulfil their tasks effectively, they also need to be held democratically accountable in the exercise of their powers and discretionary choices. Accountability can be defined as an obligation owed by one person ("the accountable", also known as "the actor") to another ("the accountee", aka "the forum"), according to which the former must give account of, explain and justify his/her actions or decisions against criteria of some kind, and take responsibility for any fault or damage⁵. Independence and accountability go hand in hand, as explicitly requested by the Basel Committee on Banking Supervision⁶. As noted by (Amttenbrink and Lastra 2008), the rationale for accountability "finds its roots in (representative) democracy itself", as accountability not only guarantees some alternative checks and balances (outside those usually adopted in democratic constitutional orders) but also, by doing so, legitimates the

² (Goodhart 2002) argues that the achievement of monetary and price stability requires the smooth operation of the financial system, so that central banks have an intrinsic interest in financial stability. The same author, however, reports that conflicts of interest may arise, e.g., if failures in banking supervision tarnish the central bank's credibility in setting inflation targets, or if supervisory concerns lead to worse monetary decisions (e.g., if tighter monetary conditions are needed but large banks are suffering from liquidity pressures).

³ An example was the UK's Financial Services Authority set up in 2001 and dissolved in the aftermath of the 2007-2009 Great Financial Crisis, with prudential supervision handed back to the Bank of England through an *ad hoc* Prudential Regulatory Authority.

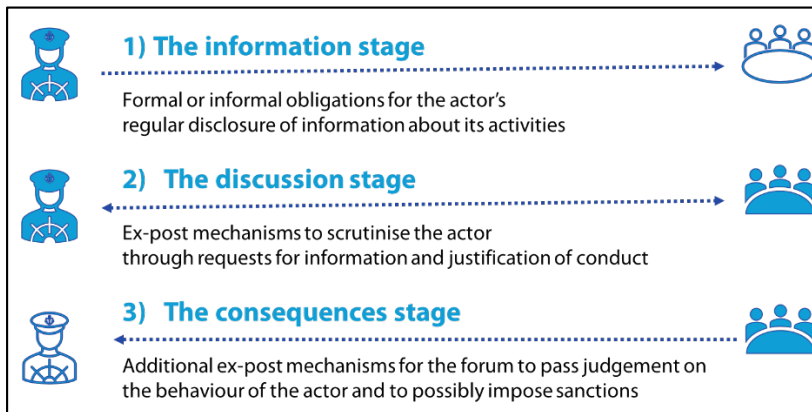
⁴ According to a study of 140 countries in 1998-2010 (Eichengreen and Dincer 2011), banking supervision tends to be assigned to the central bank in low-income countries where that institution is one of few public-sector agencies with the necessary technical capacity, while it is more likely to be undertaken by a non-independent government agency in countries ranked high in terms of government efficiency and regulatory quality. These institutional arrangements affect the financial system's performance, as countries with independent supervisors other than the central bank have fewer nonperforming loans as a share of GDP (even after controlling for other relevant variables), require banks to hold less capital (presumably because there is less need to protect against loan losses) and may be less prone to systemic banking crises. Based on an analysis of supervisory independence and accountability in 55 countries, (Masciandaro, Quintyn, and Taylor 2008) conclude that the likelihood for establishing governance arrangements "suitable for supervision" is higher when the supervisor is located outside the central bank.

⁵ (Oliver 1994), as quoted in (Amttenbrink and Lastra 2008). It is useful to distinguish between "explanatory accountability", where the accountee only faces an obligation to give account of its actions, and "amendatory accountability", where there also a duty to grant redress for acknowledged mistakes (Lastra and Shams 2001; Hüpkes, Quintyn, and Taylor 2005). Given that supervisory decisions entail a high degree of technicality, the latter may prove hard to enforce, although severe failures may lead to independent authorities to being dissolved and replaced.

⁶ Principle 2 of the Basel Committee's "Core Principles for effective banking supervision" requires that "the supervisor possesses operational independence, transparent processes, sound governance, budgetary processes that do not undermine autonomy, and adequate resources, and is accountable for the discharge of its duties and use of its resources" (Basel Committee on Banking Supervision 2024).

existence of independent agencies in the citizens' eyes⁷. Figure 1 shows the three stages through which accountability is usually exerted.

Figure 1: The three stages of accountability



Source: (Bovens 2007), quoted in (Maricut-Akbik 2020)

Two important tools to enforce accountability are *transparency* and *performance control*:

- *transparency* may help making financial supervisors accountable not only towards politically elected bodies like parliaments and governments, but also to all interested stakeholders and the public opinion at large (even though, when the tasks performed are highly technical, there is a risk that the authority's decisions may be misjudged by an unexperienced or misled audience). Transparency is not only about data and bare facts, but includes providing the accountable with an opportunity to explain and defend policy actions. By fostering credibility, transparency may end up supporting both accountability and independence⁸
- *performance control* refers to the fact that accountability implies an obligation to comply with certain standards or to achieve specific goals; hence, some "yardsticks" are required, against which one can measure how that obligation was discharged. Accordingly, accountability may become an elusive concept when such standards and outcomes are hard to establish⁹.

Further instruments are the possibility for democratically elected institutions to amend the legal status of an independent supervisor, to participate in the appointment and dismissal of its top officials, to constrain its strategic options by overseeing its budget.

⁷ According to (Hüpkes, Quintyn, and Taylor 2005) accountability aims at: i) providing public oversight; ii) maintaining and enhancing legitimacy; iii) enhance agency governance and; iv) improving agency performance.

⁸ In this sense, although there is a clear trade-off between accountability and independence, the two are sometimes seen as "two sides of the same coin" (Athanasios 2011). (Hüpkes, Quintyn, and Taylor 2005; Quintyn, Ramirez, and Taylor 2007) even argue that it is possible to promote accountability in a way that encourages and supports independence ("a virtuous interaction between independence and accountability"). Conversely, (Donaire Villa 2022) claims that "balancing the independence of the ECB's Supervisory Board [...] and its democratic accountability [...] constitutes a 'quasi-oxymoronic' endeavour". (Liedorp et al. 2013) note that the need for transparency, when it comes to banking supervisors, may be considered less obvious by policymakers than in the case of central banks.

⁹ See (Amttenbrink and Lastra 2008) for a list of the objectives and standards chosen when the British Financial Stability Authority was created in the early 2000s; their bottom line is that such objectives and standards could only be "rather vague" and consequently left a considerable amount of leeway to the agency. On the other hand (Hilbers et al. 2013), while recognising that it may be challenging to measure a supervisor's performance and to prove causality between the latter's actions and observed effects. provide suggestions and principles for developing of a portfolio of suitable indicators.

Accountability arrangements for banking supervisors may prove more difficult to design than in the case of, say, central banks; in fact, while the latter’s success in achieving monetary policy objectives (e.g., in keeping inflation close to a target rate) can be objectively monitored at all times, the effectiveness of the former prompts for a subjective appraisal, and can only be measured with certainty when inadequacies are made apparent by a major crisis¹⁰. Accordingly, while central banks and monetary policy represent a widely established example of independent authorities and thus may be expected to provide a benchmark for the design of accountability mechanisms aimed at banking supervisors, several significant differences exist between the two, as highlighted in Table 1.

Table 1: Differences in accountability between central banks and financial supervisors

	Central Bank (Monetary Policy)	Financial Sector Supervisor
Objective	Single Numerical Easy to measure	Multiple Qualitative Hard to measure
Confidentiality and transparency	The need for confidentiality vanishes quickly and transparency is helpful	Transparency may be harmful to financial stability
Legal protection	Desirable	Necessary
Regulatory function	Limited	Wide-ranging
Need for pro-active enforcement and sanctioning powers	No	Yes (but actions may impact on property and free entrepreneurship rights and may be challenged in Courts)

Source: adapted from (Hüpkens, Quintyn, and Taylor 2005)

2.2. The accountability of the ECB in its supervisory capacity¹¹

The advent of the SSM has prompted a new wave of studies on accountability, given the uniqueness of the institutional arrangements put in place to preserve the independence of the ECB’s supervisory

¹⁰ This is sometimes referred to as “ex post” accountability and is the banking equivalent of closing the stable door after the horse has bolted.

¹¹ This section summarises a string of studies evaluating the ECB’s effectiveness in discharging its accountability duties. Additional contributions are covered in Box 1 on page 29. Further research is surveyed by (Zeitlin and Brito Bastos 2020), who list some studies where doubts have been raised about the effectiveness of the control exercised by the EP onto the SSM. Such concerns include the fact that “MEPs rarely ask questions about achievement of the SSM objectives”, “address issues that fall outside the ECB’s mandate” and “request confidential information about actions taken in relation to individual banks that the ECB is expressly prohibited from providing”.

functions¹². This includes several studies raising doubts on the ECB's ability to guarantee adequate levels of transparency and democratic legitimacy.

(Alexander 2016) claims that the ECB's strong form of independence, as set forth in the EU Treaties, is appropriate for monetary policy but not suitable for its role as a bank supervisor; accordingly, amendments to the Treaties may be necessary to enhance its accountability to Council, Parliament and Member States. This is because of the differences existing between monetary policy and banking supervision (see again Table 1 on page 14)¹³, which require "that the ECB's strong form of independence be counterbalanced by greater accountability mechanisms".

(Amttenbrink and Markakis 2019) highlights the lack of a clear yardstick against which to assess the ECB's performance in the area of banking supervision, as well as of "a gap in terms of the ability of the European Parliament to assign consequences to the ECB's conduct" (e.g., due to the fact that poor performance in discharging accountability duties cannot lead to the dismissal of the SSB Chair).

(Blaas 2019) argues that the SSM's decisions are often very technical and include a significant amount of discretion and expert judgement. For such discretion to be rigorous, they should be based on a set of clear and public criteria, as well as on a loyal interaction with the EP through reports, hearings and closed-door meetings. However, such accountability channels "fully rely on the goodwill of the ECB to present a transparent, fair, and self-critical picture of [...] its actions", meaning that they need to be complemented by judicial and administrative review by the European Court of Justice ("ECJ") and the European Court of Auditors ("ECA").

(Karagianni and Scholten 2018) highlight the risk that a "patchy" relationship between the ECB, in its supervisory capacity, and national competent authorities may lead to "accountability gaps", i.e., areas where duties and responsibilities become unclear and hard to assess.

(Donaire Villa 2022) reviews the SSB's (and SRB's) institutional arrangements and sees a resulting risk of "imbalance between democracy and technocracy". This leads to a "democratic deficit" in the accountability mechanisms designed for the ECB in its supervisory capacity (above and beyond the one that is sometimes associated to the EU's decision-making procedures¹⁴), as such mechanisms "are merely informative, and the binding powers of the European Parliament are scarce and weak".

(Dawson, Maricut-Akbik, and Bobić 2019) challenge the assumption that independence and accountability can be reconciled (like "two sides of the same coin"¹⁵) through narrow mandates,

Furthermore, when the ECB delivers redacted versions of documents involving key supervisory decisions, "MEPs do not necessarily follow up on the information provided, [...] once media attention has moved on to other issues".

¹² This debate gained further traction when the ECB resorted to non-conventional monetary policy in the aftermath of the Euro Area sovereign crisis, as such measures were harder to assess in terms of consistency with the central bank's institutional mandate. See e.g. (Amttenbrink 2019).

¹³ In the author's words: "Banking supervision [...] has a wider number of – often conflicting – objectives: financial stability, investor and depositor protection, consumer protection and financial crime. Moreover, it is much more difficult to measure whether these objectives have been met and what the economic trade-offs are in achieving them. Also, bank supervisors have the power to restrict and restructure property and contractual rights – belonging to individual firms, depositors, shareholders and creditors – and in doing so to utilise a far greater number of regulatory instruments than is available in monetary policy. This is one reason why banking supervision has been subjected to greater accountability mechanisms than monetary policy by requiring, for example [...], that the content of regulations are clearly ascertainable in advance and proportionate to achieve a legitimate regulatory aim and can be challenged by those subject to them before a fair and impartial tribunal. Accountability controls are also necessary because bank supervisors also ordinarily have an array of investigation and sanctioning powers which can be used against banks and financial firms, individuals and other parties for failing to comply with micro-prudential regulatory requirements [...]."

¹⁴ In the author's words: "the absence of initiative and full legislative capacity of the European Parliament, the legislative nature of the EU Council, despite its governmental composition, that relegates the Eurochamber to the mere role of an essentially negative co-legislator through the veto in the ordinary legislative procedure, the still relative abundance of cases of merely consultative intervention by the European Parliament".

¹⁵ See Footnote 8.

transparency and multiple oversight channels, and argue that this kind of “procedural” accountability is intrinsically ineffective and leads to privileging the former (independence) over the latter (accountability). Accordingly, they claim that ECB accountability has become “a complex administrative exercise that focuses on the procedural steps [...] while simultaneously limiting substantive accountability”.

(Maricut-Akbik 2020) focuses on the EP’s ability to contest ECB supervisory decisions through letters and public hearings. A detailed analysis of such interactions shows that they are only partially effective, and the author notes that the tight confidentiality rules of the SSM “allow the ECB to silence contestation on many politically salient issues”. This is mostly the case with clarification requests regarding banks performing poorly (or considered to have received preferential treatment) in stress tests, having a high level of non-performing loans, or being declared likely-to-fail: in these cases, the SSB Chair, on financial stability grounds, often refuses to comment “on the interactions with individual supervised institutions or on the supervisory measures taken with regard to them”.

Several studies focus on transparency as a prerequisite for accountability. (Beroš 2019) highlights a “transparency gap” undermining the ECB’s accountability within the SSM (in contrast with the ECB’s monetary policy activity, where transparency has been consistently prioritised with positive outcomes). Such a gap includes an “internal aspect” (low transparency towards industry participants, leading to the risk that individual decisions be perceived as arbitrary), as well as an “external aspect” (limited disclosure of data and documents to the general public, where some progress has been made but should be further encouraged).

(Petit 2019) notes that, although the ECB has steadily improved its accountability practices over time, this was mostly due to a voluntary shift towards greater transparency with external constraints remaining somewhat loose; accordingly, this process might be a “reversible oscillation”, and accountability might weaken again in the years to come. Similarly (but more harshly), (Curtin 2017) notes that the ECB enjoys substantial discretion over what information to release, to whom and when, and interprets transparency as being about communication, leading to “a clear deficit in democracy”.

Based on the concepts of “input” and “output legitimacy”¹⁶, (Gandrud and Hallerberg 2015) focus on an important “output legitimacy” channel, that is, transparency and supervisory data, to conclude that the banking union has worsened the EU’s democratic deficit, as the information made available to the European public is significantly less timely and less detailed than that provided by the US’ federal banking authorities. Their critique extends to many EU national supervisors, which are slow or unwilling to provide individual bank data.

(Högenauer 2023) also deals with transparency and argues that “commercially sensitive information is just one of many types of information that one can provide, and it should not distract from the need to provide clarity on the objectives, policies, and general principles underlying the actions of the supervisor”. On the basis of this wide-ranging approach, her assessment of the ECB’s transparency standards is overall positive. Following the methodology developed by (Liedorp et al. 2013), she compares the ECB’s behaviour to that of an international sample of 24 banking supervisors; the former gets a total transparency score of 12 out of 15, significantly better than the 8.4 average of the

¹⁶ “Input legitimacy” is an institution’s responsiveness to citizen concerns through their participation, and is typically low for non-elected, technical bodies like central banks and banking supervisors. “Output legitimacy” stems from the fact that the results of the institution’s activities are made available to the public (and to democratically elected bodies); it can be assessed through “police patrols” (when a regular oversight is exercised through, e.g., parliamentary hearings and Q&As) and “fire alarms” (when experts and stakeholders raise issues on the basis of publicly accessible supervisory data).

benchmark data (which, however, was collected ten years before, meaning that other supervisors may have undergone significant reforms in the meantime).

A positive assessment of the ECB's ability to discharge its accountability obligations is also provided by (Demosthenes, Neumann, and Stubenrauch 2020), who carry out a qualitative analysis of the SSM's accountability framework, as measured against the principles of the Basel Committee on Banking Supervision (BCBS). After comparing the ECB's practices to those of some major (central bank) supervisors, they conclude that the former's accountability standards "largely meet" the BCBS' criteria on independence, accountability, resourcing and legal protection¹⁷.

(Dragomir 2019) lists the many institutional bodies to which the ECB is accountable and its main accountability requirements, the different legal frameworks where such requirements are foreseen and the channels through which various subjects can influence the ECB's behaviour. In the author's opinion, the existing framework, when considered "holistically" ("acknowledging the variety and complexity of formal, informal, binding and voluntary accountability arrangements for the multiple ECB tasks") shows a considerable resiliency and allows arrangements to adjust in order to respond to calls for increased accountability. A similar perspective is adopted by (Bovenschen, Kuile, and Wissink 2015), according to whom "the ECB finds itself in a complex web of accountability relationships" and this "great variety leads to tailor-made accountability which keeps power in check while respecting the independence of the banking supervisors". (Fromage 2019) discusses how the ECB's role has multiplied and diversified over time and what this means for its democratic accountability, primarily towards the EP.

(Koop and Reh 2019) take a somewhat unconventional position on ECB accountability: while they do not question the fact that accountability and transparency are desirable features of a regulatory framework, they caution against assuming "too easily" that such characteristics will end up enhancing citizen support. In their opinion, EU citizens may not be fully aware of the complex technicalities of the ECB and its design, and may not prioritise democratic standards over alternative motivations for institutional acceptance. Accordingly, accountability should not be seen as an absolute goal, and trade-offs should be carefully considered.

3. THE MAIN INTERACTION CHANNELS BETWEEN THE EP AND THE SSM

After reviewing scholarly contributions on accountability and on the ECB's performance in this field, we now describe how the interaction between the latter and the EP played out during the first decade of the Single Supervisory Mechanism. To that aim, we first summarise the main rules governing the SSM's accountability duties towards the European Parliament (§3.1), then review how the various tools and channels were actioned in practice, and how their usage evolved over time (§3.2).

3.1. The main rules and practices currently in place¹⁸

The legal status of the ECB's supervisory functions *vis à vis* the European Parliament and other EU institutions reflects the special regime that was awarded to the European Central Bank by the Treaty

¹⁷ It should be kept in mind, however, that such criteria were written by supervisors and reflect their perspective and priorities. Additionally, the authors of the paper are all ECB representatives. This might explain why, e.g., they tend to accept as normal that the ECB's accountability framework does not entail any ex post sanctions (such as the suspension/dismissal of supervisors, the possibility of overruling by another authority or financial liability), even though they recognise that "if none of these sanctions is credible enough, then formal requirements to supervisors to explain and defend their decisions may not be sufficient to ensure effective accountability".

¹⁸ A quick, but thorough introduction to the accountability mechanisms linking the SSM and the EP is provided by (Magnus and Spitzer 2024).

on the Functioning of the European Union (“TFEU”)¹⁹. There, Article 282(3) states that the ECB “shall be independent in the exercise of its powers” and that “union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence”. Symmetrically, Article 130 states that members of the ECB’s decision bodies must not seek or take instructions from Union institutions, from the governments of Member States “or from any other body”. This deep-rooted independence is subject to a (deliberately loose) system of checks and balances: Article 284(3) requires the ECB to address an annual report to the main European institutions, presenting it to the European Parliament, which may hold a general debate. The ECB’s President and Executive Board members may be heard by the competent committees of the EP, at the Parliament’s request. The relationship between the EP and the ECB is also regulated in the latter’s statute, where the above-mentioned provisions are reiterated in greater detail²⁰.

Regulation (EU) No 1024/2013²¹ (“the SSM Regulation”), which illustrates how the supervisory tasks entrusted to the ECB are to be discharged, stipulates that the latter should be accountable for the exercise of those tasks towards the EP. This duty of accountability²² includes regular reporting (subject to professional secrecy requirements) as well as responding to questions asked by MEPs. Furthermore, the EP retains the right to set up temporary committees to investigate alleged contraventions or maladministration in the implementation of Union law; the ECB must cooperate sincerely with any such investigations and, together with the EP, must make arrangements on how accountability and parliamentary oversight are exercised in practice.

As noted in the SSM Regulation, the EP also retains the right to adopt “resolutions on matters which it considers appropriate”; in this capacity, a motion containing an annual report on the banking union (with an *ad hoc* section on banking supervision) is usually adopted by both the ECON committee and the plenary.

The SSM Regulation also states that the ECB’s proposal for the appointment of the SSB Chair and Vice-Chair is subject to the EP’s approval. However, as the Chair’s term of office is not renewable, there is no incentive for him/her to seek parliamentary support once appointed. Although the EP must be kept “duly informed” on the selection procedure, it has no formal say in the process, which might lead to situations where the proposed candidate is not wholeheartedly endorsed by MEPs²³. The EP also enjoys some narrow removal powers, which however require a proposal by the ECB itself and an endorsement by the Council and are limited to cases when the SSB Chair no longer fulfils the conditions required for the performance of his/her duties or has been guilty of serious misconduct.

¹⁹ See <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012E/TXT>.

²⁰ The statute of the European System of Central Banks (ESCB) and of the ECB is attached, as Protocol 4, to the Treaty on European Union (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016M/PRO/04>).

²¹ See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1024>.

²² According to Article 20, the ECB shall be accountable to the EP [...] for the implementation of the SSM Regulation and shall submit on an annual basis to the EP (and other EU institutions) a report on the execution of the tasks conferred on it by this Regulation. The Chair of the SSM shall present that report in public to the EP and, at the request of the EP, shall participate in a hearing on the execution of its supervisory tasks by the competent committees. The ECB shall reply to questions put to it by the EP. Upon request, the Chair of the SSM shall hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the ECON committee concerning its supervisory tasks according to the EP’s powers under the TFEU; such discussions must be organized in a way that ensures full compliance with the ECB’s confidentiality obligations.

²³ §15 of the EP’s Banking Union report on 2023 “regrets that, as part of the selection procedure for the Chair of the ECB Supervisory Board, the ECB disregarded the feedback from Parliament” and “urges the ECB to duly take into account Parliament’s opinion in the upcoming selection procedures”. In fact, on September 2023 the ECB’s candidate for the SSB Chair was endorsed by 39 ECON members out of 54, with press sources (<https://www.reuters.com/markets/europe/next-ecb-supervisor-buch-pledges-simplify-bank-checks-2023-09-20/>) suggesting that another shortlisted candidate may have been preferred by MEPs.

The exercise of democratic accountability and oversight by the EP on the ECB's supervisory functions is regulated in greater detail by an Interinstitutional Agreement²⁴. This is a rather short and straightforward document, listing the following interaction channels²⁵:

- **Reports:** the ECB must submit an annual report on the execution of the tasks conferred to it by the SSM Regulation, and the SSB Chair must present that report to the EP at a public hearing; a confidential, draft report must be made available to the EP four working days before the hearing, whereas the final report must be published on the SSM website.
- **Hearings and confidential discussions:** the SSB Chair must participate in two ordinary public hearings of the EP's competent committee (currently, ECON²⁶). Additionally, he/she may be invited to additional ad hoc exchanges of views. Finally, where necessary for the exercise of the EP's legal powers, the committee Chair may request special confidential meetings with the SSB Chair, providing written motivations; such "in camera" meetings, where no minutes are to be taken, are bound by the same confidentiality regime applying to the SSB and to the ECB's supervisory staff. They must follow the principle of "openness and elaboration around the relevant circumstances", as the SSM is subject to Article 15 of the TFEU, whereby all EU institutions, bodies, offices and agencies must conduct their work as openly as possible; nevertheless, the exchange of confidential information regarding the execution of supervisory tasks is subject to the limits set by Union law, including confidentiality constraints.
- **Replies to letters:** the ECB must reply in writing, within five weeks, to written questions put to it by MEPs via the ECON Chair. These Q&As must be published on both the ECB's and the EP's websites.
- **Access to information:** a comprehensive and meaningful record of the proceedings of the SSB must be provided to the EP, including an annotated list of decisions. Any objection by the ECB's Governing Council against an SSB's draft decision must also be reported to the Chair of the competent EP committee. If a credit institution is wound up, information on that institution must be disclosed *ex post*, once it is no more subject to confidentiality requirements.
- **Information and dialogue on ECB acts:** the ECB must inform ECON of the procedures (including timing) it has set up for adoption of its regulations, decisions, guidelines and recommendations, which are subject to public consultation. Additionally, it must inform the committee on "the principles and kinds of indicators or information" that it is generally using in developing such acts, with a view to enhancing transparency and policy consistency. Draft acts must be sent to the EP before the public consultation starts. The latter may submit comments, leading to informal exchanges of views with the ECB that take place in parallel with public consultations. The ECB must also regularly inform the Parliament in writing about the need to update adopted acts.

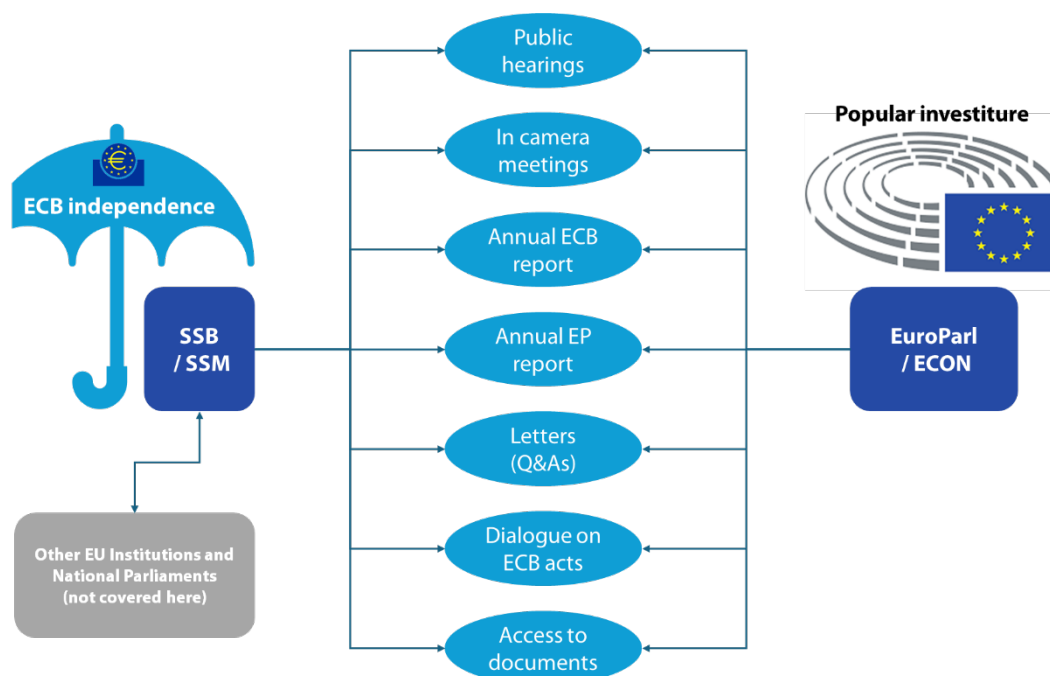
²⁴ See [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013O1130\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013O1130(01)).

²⁵ This toolkit looks overall consistent with the best practice reported in academic papers. E.g., making reference to the parliamentary oversight of independent financial supervisors, (Hüpkens, Quintyn, and Taylor 2005) list the following dimensions: assessing the mandate (holding the financial supervisor accountable for meeting the stated objectives), overseeing implementation of legislation (ensuring that public policy is interpreted and administered in accordance with the legislative intent), having a dialogue on the quality of the legal framework (giving the supervisor an opportunity to voice its concerns and communicate problems in its supervisory practice). It should be noted, however, that the EP's scope of action is limited by the fact that the ECB's mandate is partly governed by "constitutional law" (the European Treaties) that cannot be amended by the Parliament. Also, this list does not include mechanisms that are currently in place in some Member Countries, including e.g. the presence of MPs in the supervisor's oversight board (as is the case in Germany, where the BaFin's Administrative Council includes five representatives of the Parliament) or the power to approve the supervisor's budget.

²⁶ Short form for the European Parliament's Committee on Economic and Monetary Affairs.

In the course of the above-mentioned interactions (which are summarised in Figure 2), the EP must put in place adequate safeguards and measures to deal with classified information and documents, ensuring that they are used only for the purpose for which they have been provided. Any disclosure by the EP to third parties must occur with the ECB's consent²⁷.

Figure 2: Main interaction channels between the SSB/SSM and the EP



Source: Author's elaborations

3.2. How the different channels operated in the first 10 years of the SSM

Based on publicly available information, this section reviews how the different interaction channels between the SSM and the EP have been utilised in practice since 2014, and how their usage has evolved over time.

3.2.1. Annual reports

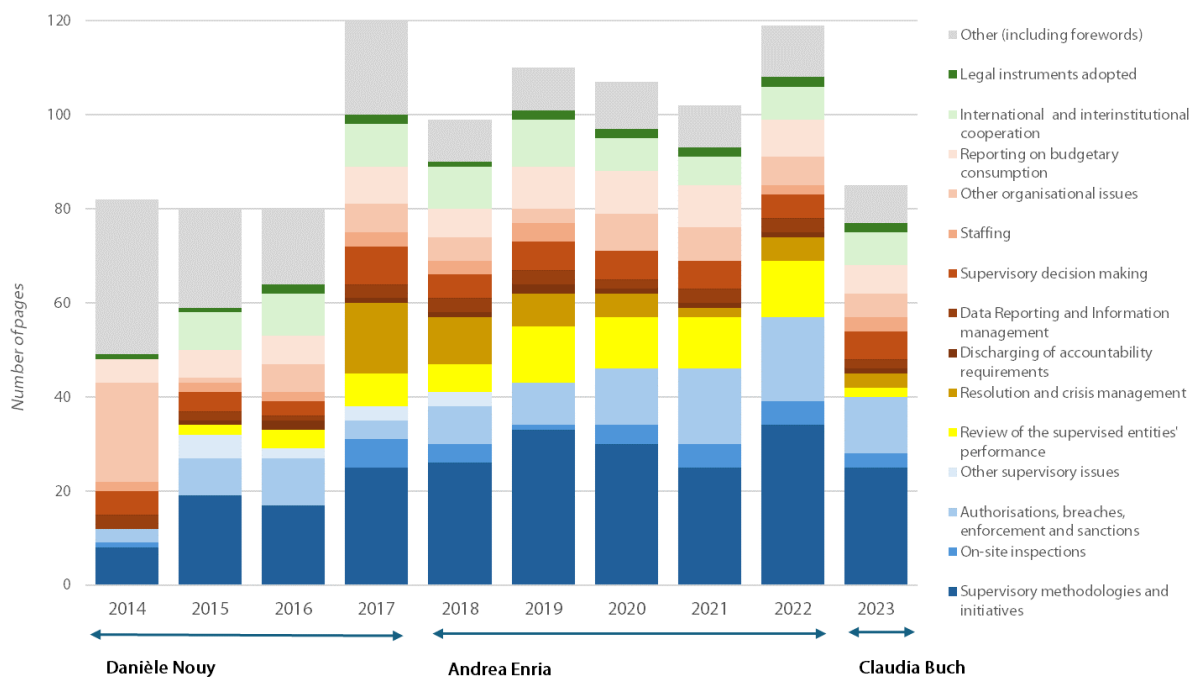
ECB annual reports - Since its inception in 2014, the ECB has released 10 annual reports on its activity as a banking supervisor²⁸, ranging from 80 to 120 pages each. Figure 3 shows how the reports' main contents evolved throughout the years. Over time, the page count has generally increased and more

²⁷ The Interinstitutional Agreement also covers the procedures put in place by the ECB for the selection of the SSB Chair and the communications to be made to the EP's competent committee in the course of such procedures (draft vacancy notes, criteria for shortlisting candidates, and the resulting short list), as well as the committee's right to submit questions and receive a written response within two weeks. It is agreed that the ECB's proposals for the SSB Chair and Vice-Chair must be motivated in writing and the candidates must submit to a meeting with the EP's competent committee, as well as to a committee and plenary vote. The procedure leading to the SSB Chair's removal is also detailed. Finally, the Agreement specifies how the ECB must assist the EP in case a Committee of Inquiry is set up, pursuant to Article 226 TFEU, in accordance with the principle of "sincere cooperation" and under the same confidentiality rules that apply to *in camera* meetings

²⁸ All reports can be found at the following link: <https://www.bankingsupervision.europa.eu/press/publications/annual-report/html/all-releases.en.html>.

room as been devoted to supervisory methodologies and initiatives (e.g., by reporting on *ad hoc* surveys, like those on climate risk, through which supervisory priorities were promoted).

Figure 3: Main topics addressed in the ECB’s annual report on supervisory activities



Source: Author’s elaborations on the ECB’s annual reports on supervisory activities

In 2017 a new section has been introduced, covering crisis management and resolution (see the brown boxes). An increasing amount of information on the supervised entities’ performances has been provided since 2015 (see the yellow boxes), although it has been reduced in the report’s last edition to focus mostly on medium-term supervisory issues; at any rate, most of the data released in this section refer to the banking system’s aggregated results, and no drill-downs are usually provided on the least satisfactory end of the spectrum, where actual vulnerabilities may hide²⁹. Other sections cover organisational aspects, such as budgets, data reporting schemes and staffing, and the interactions taking place between the ECB and international regulators. While some parts of the reports involve the provision of previously undisclosed details on the SSM’s operation and on the results of its supervisory activities, a large portion draws upon pre-existing publications, including e.g. the stress tests’ results and the outcome of the Supervisory Review and Evaluation Process (“SREP”). A regular section illustrates how the SSM discharged its accountability duties.

European Parliament’s annual reports - The EP’s annual reports on the banking union are drafted by the ECON Committee and approved in a plenary sitting. They are shorter than the ECB’s reports (generally less than 20 pages, including parts on resolution and deposit guarantee schemes) and, while being often supportive of the ECB’s priorities and requests for regulatory changes, have occasionally

²⁹ To be fair, the 2023 report includes links to the banks’ individual results for the 2023-2025 stress test exercise. However, the data released by the ECB for euro area institutions that were not part of the EBA sample (https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.2023_Stress_Test_Individual_bank-level_results%7Ea9b8824c65.en.xlsx) is considerably less detailed than that made available by the EBA itself (<https://www.eba.europa.eu/eba-publishes-results-its-2023-eu-wide-stress-test>).

included outspoken statements on the latter's past failures and the ensuing need for improvement³⁰. Although these reports sometimes delve into technical details, they mostly consist of high-level recommendations. In order to adequately represent all positions within the EP, they usually address a wide range of issues, rather than focusing on a small set of priorities: this might explain why some calls to the ECB on specific issues have sometimes failed to affect the supervisory agenda³¹. While the EP's reports sometimes include indications on future regulatory priorities, such statements sometimes fail to translate into law, possibly because of the need to negotiate reforms with the Commission and the Council³².

Since 2021, a short note released on the SSM's website provides the ECB's "feedback on the input provided by the EP" in its Banking Union report. As concerns 2023, the feedback note³³ acknowledges the EP's support for many of the ECB's supervisory priorities and provides the supervisor's views on some of the recommendations received (e.g., by clarifying that no further generalised dividend bans should be expected), as well as on the most controversial issues identified by the Parliament³⁴.

3.2.2. Public hearings³⁵

Figure 4 illustrates the timing of the various hearings held by the SSB Chair with the ECON Committee since the SSM was established back in 2014. As can be seen, the frequency dropped in early 2020, due to the Covid-19 pandemic (when less meetings took place, all of them online); the return to normality was somewhat slow, especially as far as the so-called "ad hoc exchanges of views" are concerned.

³⁰ E.g. the 2015 report notes that "the European Central Bank (ECB) has to date failed to take sufficient account of the proportionality principle in connection with its supervisory activities". The 2022 report "deeply deplores the fact that the ECB Governing Council, the Supervisory Board of the ECB and the SRB Board all lack gender balance".

³¹ E.g. the annual reports have repeatedly asked the SSM to include among its main supervisory priorities the reduction of "complex and illiquid financial instruments, including derivatives".

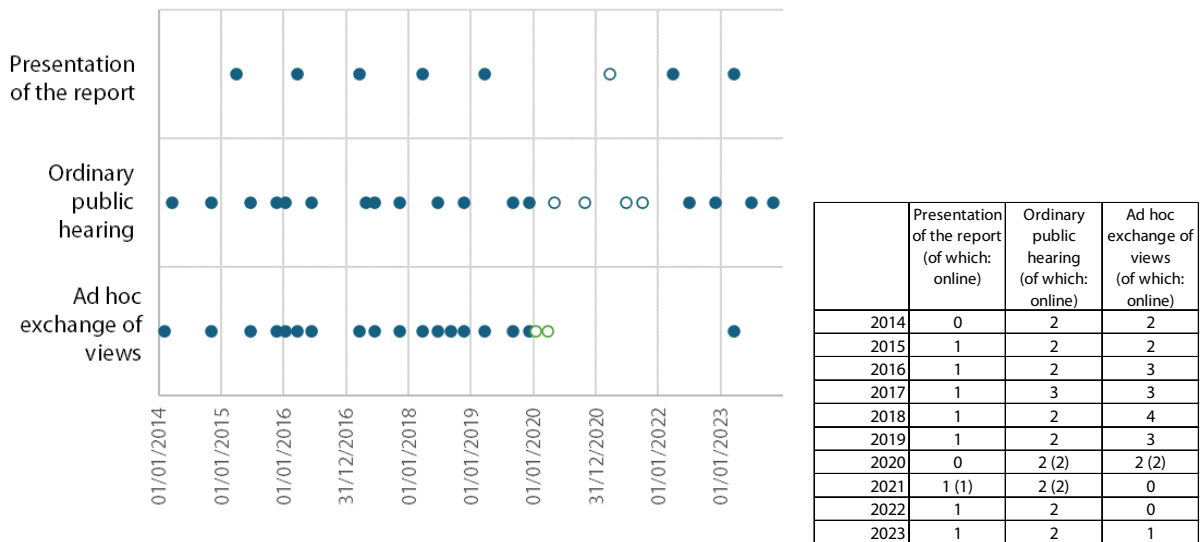
³² This is the case, e.g., of the "fit and proper" requirements, where the Parliament's claims that the Capital Requirements Regulation had to include uniform rules on ex ante assessments (see e.g. the banking union report for 2020, §43) was considerably watered down in the trilogue that led to CRRIII and CRDVI.

³³ See <https://www.bankingsupervision.europa.eu/press/publications/feedbackar/pdf/ssm.feedbackar202403.en.pdf>.

³⁴ Regarding the events mentioned in Footnote 23, the Feedback note states that "the selection process for the Chair of the Supervisory Board, the ECB was rigorous and transparent", in full respect of all applicable regulations, and would not comment further.

³⁵ A full list of the hearings with some links to background notes, video recordings and transcripts is provided in (Magnus 2019) and (Magnus and Spitzer 2024). A partial list of public hearings is also available in (Akbik 2022).

Figure 4: Public hearings held by the SSB Chair with the ECON Committee (empty dots indicate remote meetings)³⁶



Source: Author’s elaborations on the ECB’s annual reports on supervisory activities

Table 2 summarises the main topics covered in the meetings. Over time, the focus shifted from issues regarding the setup and internal organisation of the SSM to broader, policy-oriented areas, such as NPLs, crypto-assets and climate-related risks. Less room was dedicated to bank-specific requests, as no major decisions regarding resolutions and bailouts were taken in the latest years. A considerable portion of the hearings was spent on discussing emerging macroeconomic risks, such as those associated with the spread of Covid-19 and its potential impact on financial stability, or the Russia-Ukraine war and the vulnerabilities of international banking groups having subsidiaries located in the belligerent countries.

³⁶ According to (Maricut-Akbik 2020, online appendix), the ad hoc exchange of views scheduled on February 4, 2014 did not take place. However, it has been included in this figure as it has been reported in the ECB’s annual report on supervisory activities. Other ad hoc exchanges are included in this figure, as per the ECB’s annual reports, that are not confirmed by (Maricut-Akbik 2020).

Table 2: Main topics discussed during the ECON Committee’s meetings with the SSB Chair

Year	Main topics of hearings
2015	Options and national discretions in the CRR/CRD IV, the Supervisory Review and Evaluation Process (SREP)
2016	Non-performing loans, the SREP, legislative dossiers in the area of banking supervision.
2017	Measures to reduce non-performing loans (NPLs), the first resolution and liquidation cases involving significant institutions, legislative dossiers in the area of banking supervision, including the completion of banking union
2018	NPLs, the role of the ECB in anti-money laundering and the 2018 EBA stress test
2019	The finalisation of Basel III, the role of the ECB in anti-money laundering, the supervisory approach to green finance and the future of the banking union
2020	ECB Banking Supervision’s measures in response to the COVID-19 pandemic. The impact of Brexit on the banking sector and the supervisory approach to climate-related risks
2021	The supervisory measures taken by the ECB in response to the COVID-19 pandemic. The sustainability of banks’ business models, banks’ profitability, the management of climate-related risks and the impact of digitalisation. The banking union (implementing Basel III, home-host issues, the bank crisis management and deposit insurance framework) and leveraged finance.
2022	The risks to the financial sector stemming from the Russian war in Ukraine, the macroeconomic environment, high inflation, monetary policy normalisation and the energy crisis. The strengthening of the banking union, including the implementation of the Basel III reforms. ECB Banking Supervision’s programme to incorporate climate change considerations into supervision, and the supervision of crypto-asset services.
2023	The risks stemming from the macroeconomic outlook, particularly the impact of interest rate increases on the banking sector and depositors, the lessons learnt from the 2023 market turmoil and developments in NPLs. Emerging risks from the crypto sector and non-financial banking institutions, the legislative files to strengthen the banking union (such as the banking package and the review of the bank crisis management and deposit insurance framework)

Source: Author’s elaborations on ECB annual reports

Drawing on previous research by (Maricut-Akbik 2020), as well as on an analysis of the minutes taken during the most recent hearings, Figure 5 focuses on the questions asked by MEPs during their meetings with the SSB Chair. Less emphasis is placed on “extraordinary” events such as State aid and stress tests (also due to the fact that the rules governing the latter have become more transparent over time, and so have the related bank-specific SREP decisions); on the other hand, the ECB is increasingly consulted on future regulatory priorities, as well as on its stance regarding new legislation that is being negotiated with the Commission and the Council.

Figure 5: Main areas covered in the questions asked by MEPs during the hearings with the SSB Chair³⁷

	2014-2016	2019-2021	2022-2024*
<i>Number of questions</i>	205	129	74
Stress tests	21%	6%	1%
SSM internal organisation	18%	8%	1%
Legislative proposals	14%	18%	20%
NPLs/capital shortfalls	19%	19%	9%
Bank practices / profits / competition	9%	6%	14%
Recapitalisation / State aid	5%		
Resolution, FLTF decisions	5%		8%
Covid-19		16%	
Climate action		7%	1%
Digital changes			7%
ECB monetary policy		12%	3%
Others	7%	8%	35%

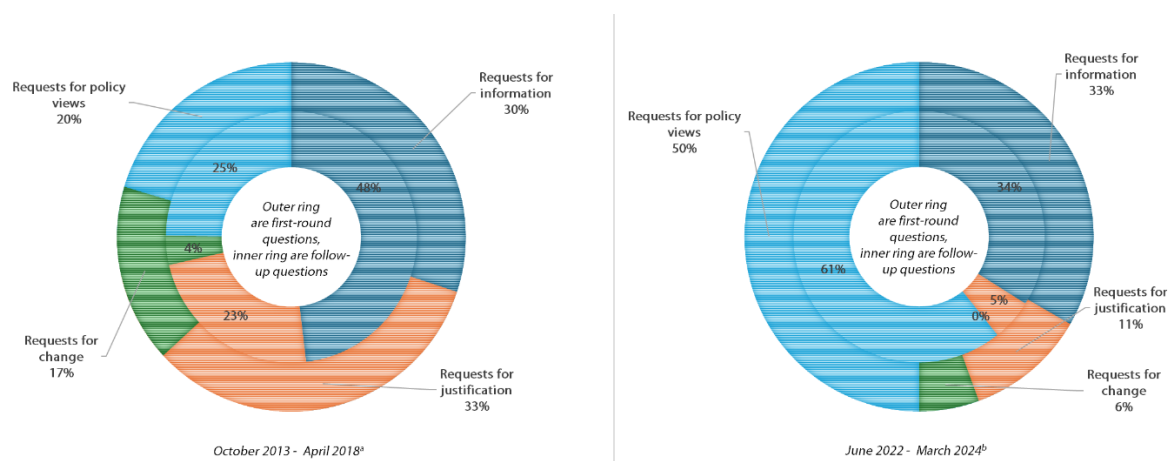
Source: (Maricut-Akbik 2020) for periods 2014-2016 and 2019-2021, author's elaborations for period 2022-2024. *Period 2022-2024 starts in June 2022 (as no minutes are available for the March 2022 hearing) and ends in March 2024 (last hearing when this paper was drafted).

Based on the same sources, Figure 6 analyses the different types of questions asked by MEPs, distinguishing between "first-round" and "follow-up" ones. As the SSM's rules and processes have become increasingly known over time (as well the ECB's unwillingness to publicly comment on individual decisions), the so-called "requests for justifications" have grown less and less frequent; this may also be due to the fact that in-camera meetings (see §3.2.3) have provided a more suitable forum for this kind of discussions. Conversely, MEPs have spent more time engaging with the SSB Chair on broad "policy views", asking for the latter's position on emerging topics that might endanger bank stability in the years to come, as well as on further legislative initiatives required to complete and strengthen the Banking Union³⁸. This tendency towards wide-ranging, high-level discussions has sometimes extended towards topics that are not directly related to the SSM's mandate, like inflation and wage increases.

³⁷ For the sake of homogeneity, our analysis of 2022-2024 uses the same labels as in (Maricut-Akbik 2020). However, as topics and priorities change over time, this leads to an increase in the weight of the "Others" category (35%). The most frequent topics within this category are the completion of the banking union, bank mergers and the bank-sovereign loop.

³⁸ As noted by (Maricut-Akbik 2020), these "requests for policy views" cannot be considered accountability interactions in a narrow sense.

Figure 6: Different types of first-round and follow-up questions asked by MEPs



Source: (Maricut-Akbik 2020) for Panel a, author’s elaborations for Panel b.

In 2022 some MEPs have complained about the format of public hearings and the limited time available for asking follow-up questions³⁹; as a result, ECON has been experimenting with some innovations in an attempt to foster interaction between the SSB chair and MEPs during the hearings⁴⁰. According to some MEPs, the effectiveness of the Q&A part of a public hearing depends mostly on the attitude shown by the SSB Chair. The dialogue “can be a complete waste of time” when you “have a Chair that doesn't want to share any information”. However, this is not always the case: e.g., MEPs recognised that the SSB Chair in 2019-2023 showed a sincere willingness to address their questions and “a great understanding of the needs of the Parliament” (Akbik 2022, 19).

3.2.3. In camera meetings

There are no public accounts of in camera meetings, due to their confidential nature. However, anecdotal evidence suggests that they tend to occur on the same dates as public hearings and exchanges of views and are attended by a rather small number of participants (ECON coordinators and some ECON members specialising in banking affairs). Occasionally, the minutes of the public hearings may include comments by MEPs on a closed-door session that has just been held, expressing satisfaction and gratitude for the contents of those informal confrontations.

3.2.4. Letters and written replies

Figure 7 shows the number of replies provided by the SSB Chair to written questions asked by MEPs. After becoming more and more frequent in the first years since the SSM was established, this kind of Q&As have lost significance and have been seldom used in the most recent period.

³⁹ (Akbik 2022, 19).

⁴⁰ E.g., in June 2023 it was decided that MEPs would be allowed to ask “follow-up questions” after the SSB chair’s first reply. Such follow-up questions, however, were sometimes used to touch upon additional issues, rather than to delve into further details or justifications on the initial topic.

Figure 7: Letters by MEPs to the ECB’s chair

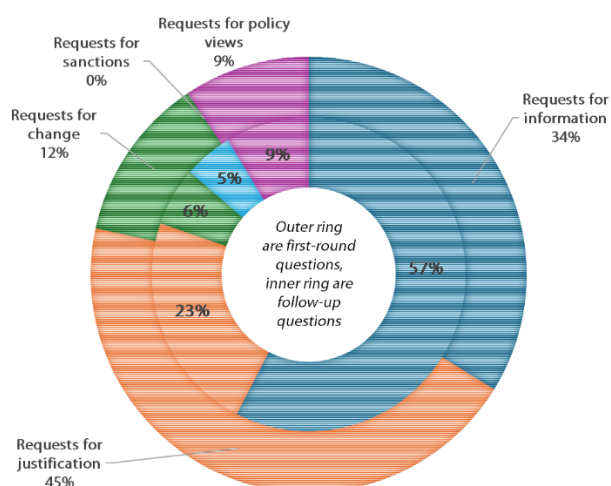
Year	Letters by MEPs	Main topics
2013	1	Not available
2014	10	Not available
2015	26	The 2014 comprehensive assessment, the ECB’s supervisory actions, the proportionality of supervisory decisions and specific risks for supervised banks
2016	34	The 2016 EBA stress test exercise, the ECB’s supervisory actions, the SREP and non-performing loans.
2017	41	The resolution and liquidation cases involving SIs, the ECB’s supervisory approach towards both SIs and less significant institutions (LSIs), its policies on non-performing loans and its interactions with national authorities
2018	35	Non-performing loans, less significant institutions and the fitness and propriety of bank managers
2019	22	Stress tests, ECB Banking Supervision’s approach to mergers, as well as governance and conduct issues in the banking sector
2020	22	Supervisory measures to counter the effects of the pandemic, the relevance of anti-money laundering/combating the financing of terrorism risk for prudential supervision, credit risk, and governance and conduct issues in the banking sector.
2021	8	Credit risk management, IT and cyber risks, governance issues and the prudential monitoring of institutional protection schemes.
2022	6	The impact of the Russian war in Ukraine on the banking sector, climate-related and environmental risks and mortgage interest rates
2023	2	Supervised institutions’ activities in Russia, supervisory work on banks’ exposures to vulnerable sectors and legislative initiatives to promote the secondary market for non-performing loans

Source: Author’s elaborations on ECB annual reports⁴¹

Similar to Figure 6 (on public hearings), Figure 8 provides a breakdown of letters by question type in 2013-2018, drawing on research by (Maricut-Akbik 2020). While first-round questions include a considerable share of requests that directly impinge on accountability (requests for justifications alone account for almost half of the total), follow-up letters (sometimes written by different MEPs, but relating to the same topic) focus mainly on information requests.

⁴¹ The numbers in this figure may differ from those in (Maricut-Akbik 2020), due e.g. to the fact that letters sent at the end of the year are answered in the following one, or that the ECB may use one single reply to answer multiple letters sent by the same MEP(s).

Figure 8: Different types of first-round and follow-up questions asked by MEPs in 2013-2018



Source: (Maricut-Akbik 2020)

To update this analysis, we considered all MEP letters to which the SSB Chair replied in 2022-2024⁴². An overwhelming majority of those letters contained requests for information, with only one request for justification and one request for policy views; most questions were first-round ones, with only one follow-up question. We also looked at the main topics covered in the MEPs’ queries (see Figure 9), finding that more than one third focus on institution-specific and/or country-specific issues. This may suggest that letters are (also) used by some MEPs as a communication tool *vis à vis* national voters and lobbies; in fact, given that the ECB’s public replies are unlikely to disclose any additional insights on specific situations, the main result of such interactions could be to show the public that a politically sensitive issue has been raised with the supervisor, even if that leads to no practical consequences.

Figure 9: Main topics covered by MEP letters in 2022-2024

Topic	Share of letters
Specific system-wide risks	25%
Specific institutions	19%
Contry-specific situations	19%
Supervisory priorities	13%
Industry structure and competition	13%
Cross border mergers	6%
Regulatory initiatives	6%

Source: Author’s elaborations on the ECB’s replies⁴³.

⁴² The cutoff date is July 31, 2024.

⁴³ All replies are available at <https://www.bankingsupervision.europa.eu/press/publications/letters/html/index.en.html>.

3.2.5. Access to minutes and other information

Access to SSB minutes is provided to MEPs via a “secure reading room”, where they can only take notes, but are not allowed to make copies. The content of the minutes is often technical in nature and requires an expert background to be fully digested. Details are sometimes redacted, making comprehension increasingly difficult. As of 2022, some MEPs complained about the delay with which the minutes were being made available (Akbik 2022, 16).

The confidentiality surrounding facts and decisions mentioned in the minutes can make it hard for MEPs to use them in public queries and requests for justifications addressed to the ECB, meaning that going through the minutes may not be worth the effort. In fact, due to their confidential nature, minutes can only be used as background materials for questions asked during in-camera hearings, which makes it impossible for an outsider to evaluate the role they play in enforcing accountability.

3.2.6. Dialogue on ECB acts

As noted above, before a public consultation starts, the ECB must inform ECON about its draft regulations, decisions, guidelines and recommendations. MEPs may then submit comments, including via informal exchanges of views, in parallel with public consultations.

This requirement is mostly formal in nature, as the ECB must not wait for the EP’s comments before starting the public consultation, and there is no minimum interval between sending drafts to ECON and circulating them to the general public; nevertheless, it has sometimes led to lively confrontations between the SSM and the MEPs.

One may recall e.g. the case of the ECB’s “addendum” to its guidance on non-performing loans (“NPL”), which was submitted to public consultation in October 2017. In the draft text, the ECB illustrated its “supervisory expectations” in such a way that was akin to setting a general prudential requirement (thus acting as a *de facto* legislator)⁴⁴. In fact, minimum levels of prudential provisions for new NPLs were set on the basis of a quantitative formula, and banks failing to comply with this “expected” level of provisions would be sanctioned via an increase in their Pillar 2 capital requirements.

The document’s setting led to a prompt reaction by the EP, which sought legal opinions and unequivocally expressed its dissatisfaction. The draft was openly contested during a public hearing with the SSB Chair held in November 2017; the EP’s President also stepped in to express his discontent and ask for changes⁴⁵. This led to some revisions in the addendum’s final text (although its general formulation was not overhauled) and to a legislative proposal by the Commission which turned the ECB’s “expectations” into law after introducing some significant amendments. Although the Parliament did not succeed in having the “addendum” scrapped altogether (and possibly did not even pursue such an extreme development), this episode can be seen as a good example of how accountability can be successfully exercised when there is sufficient consensus across national boundaries and party lines.

Additionally, it is worth mentioning that on May 20, 2019, the EP approved a set of amendments to the Capital Requirements Directive⁴⁶ (“CRD”) which included a new article constraining the ECB’s ability to impose “blanket” Pillar 2 requirements addressing industry-wide objectives (like those foreshadowed

⁴⁴ For further details see (Dragomir 2019), where links to the original documents are also provided.

⁴⁵ See (Maricut-Akbik 2020, 1208).

⁴⁶ Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (see <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0036>).

of the NPL addendum)⁴⁷. Although the text leaves ample room for interpretation, it can be seen as a way of sanctioning the ECB's use of Pillar 2 capital to enforce new supervisory rules across the board.

4. IDEAS TO IMPROVE THE EP/ECB INTERACTION IN THE NEW PARLIAMENTARY TERM

In this paragraph we outline some possible avenues to improve the interaction between the EP and the SSM, with a view to enhancing and strengthening accountability. Our suggestions also draw on the work carried out in 2020 by a selected group of experts (at the initiative of EGOV, the European Parliament's Economic Governance and EMU Scrutiny Unit), whose main recommendations are summarised in Box 1.

4.1. A constrained optimisation exercise

Before discussing possible ways of tightening the accountability link between the EP and the SSM, it is worth recalling that some strategies, although potentially beneficial, look significantly hard to pursue, at least in the short term.

Box 1: Lessons from a string of academic studies promoted by EGOV in 2020

The analysis provided in this paper is not unprecedented: indeed, in 2020 EGOV promoted a string of studies, drafted by economists and law scholars, to assess the levels of accountability towards the EP achieved by the SSM and suggest possible paths forward. Many of the lessons drawn by those studies are still worth considering. Their key recommendations are briefly recalled below.

(Lamandini and Ramos Munoz 2020) have looked at the accountability provisions put in place between the SSB and the EP and concluded that, while the system is potentially solid, its actual efficiency depends on the Parliament's proactivity in framing the debate and raising issues (which, in turn, suffers from a "piecemeal" approach to transparency). They have suggested a better alignment with the EU's standard rules on public access to institutional documents, as well as a more "intrusive and regular political control" by the ECON committee (possibly through its Banking Union Working Group) under appropriate confidentiality rules and through closer coordination with the EBA, the ECA and the ECJ.

(Smits 2020) has outlined some proposals, including greater disclosure about administrative reviews of the ECB's legal acts and the elaboration of a unified standard of professional secrecy across all financial supervisory authorities. Thematic dialogues between the EP and the accountable institutions have also been recommended, which may allow for an in-depth discussion on issues of long-term relevance. It has also been suggested that the EP joins forces with the ECB in identifying and mending legislative gaps hindering the smooth operation of the supervisory authorities and acts as a sounding board for requests to the ECB put forward by stakeholders and banks. Greater transparency on the ECB's internal decision-making processes and on the EP's accountability initiatives has also been advised.

(Zeitlin and Brito Bastos 2020) have argued that "the best way to improve the accountability of the SSM and the SRB is to request the ECB/SSM and SRB to make the findings of their internal quality assurance and review bodies publicly available (subject to constraints on professional secrecy) and for the EP to use these findings to scrutinize and stimulate public debate about the operations and effectiveness of the two institutions". In their words, "while the SQA's [Supervisory Quality Assurance's] thematic reviews in their current form are too detailed and contain too much confidential information to be shared directly with the EP and the Council, it should nonetheless be possible to produce a periodic synthesis of recently completed reviews, which could be made public, especially since the information about individual banks is already anonymized".

⁴⁷ See Directive 2019/878, amending Directive 2013/36/EU and introducing Article 104a, whereby competent authorities can impose additional own funds requirements only "to cover the risks incurred by individual institutions due to their activities", including those due to economic and market developments.

Regulatory changes may prove difficult to get, as the ECB's independence is enshrined in the Treaties. Additionally, the SSM Regulation has been adopted pursuant to Article 127(6) TFEU, hence through a special legislative procedure that "puts the Council alone at the helm of the process with the European Parliament only having a right to be consulted" (Lamandini and Ramos Munoz 2020). Accordingly, even if the EP were to believe that its powers must be significantly enhanced (e.g., by introducing stronger sanctions in order to ensure that Bovens' "consequences stage" is adequately enforced⁴⁸), this may turn out to be unfeasible in the short term, given the current legal framework.

This is not to say that legislation cannot provide ways to promote better practices in the ECB's usage of its supervisory powers. In §3.2.6, we recalled the limitations introduced in 2019 to the possibility of employing SREP decisions to enforce industry-wide objectives, and noted that they may be seen as a way of indirectly sanctioning the use of Pillar 2 capital, in the ECB's NPL addendum, to introduce a *de facto* regulatory standard. This strategy, however, requires a remarkable degree of consensus across national/party lines and risks being watered down during the trilogue with co-legislators.

Overall, looking for new ways of promoting closer interactions between MEPs and the SSM can be defined as a *constrained optimisation* exercise, where the best options are those that are concretely actionable in the short term; such options rely on both parties' willingness to strengthen relationships while recognising each other's prerogatives. Accordingly, they might prove hard to enforce unless actively shared by all subjects involved; for this very reason, however, they do not risk being mistaken for measures aimed at threatening the supervisor's independence, and may therefore prove highly productive also in the medium-to-long term.

4.2. Further explore informal, technical interactions

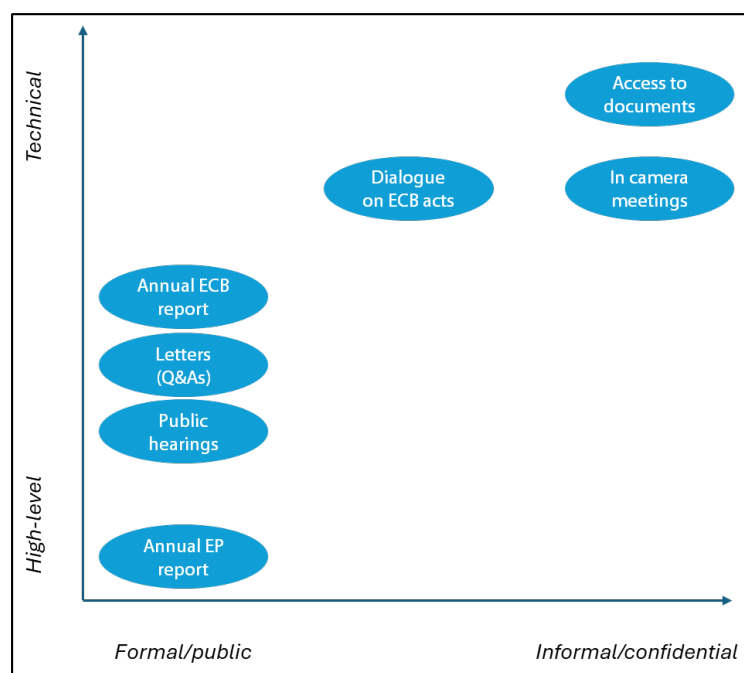
The interaction channels surveyed in §3 differ according to (at least) two significant profiles:

- on the one hand, they may either focus on high-level political priorities (as is often the case with questions asked during public hearings, where the SSB Chair is requested to outline his/her policy views) or delve into more technical matters (as was the case with some ad hoc exchanges of views, or with discussions on draft ECB acts);
- on the other hand, they may consist of formal interactions, whose contents are bound to become public, or informal dialogues, where topics involving confidentiality constraints are tackled and more insights on specific situations may be shared with MEPs.

In Figure 3, the channels already listed in Figure 2 on p. 20 are scattered across a map according to their degree of *technicality* and *formalism/publicity*. The two characteristics are somewhat correlated, as public interactions seldom lend themselves to in-depth discussions on technical matters.

⁴⁸ See Figure 1 on page 13.

Figure 10: a map of current interaction channels



Source: Author’s elaborations.

Some of the channels in the leftmost part of the figure have come under increasing disapproval over time. Public hearings have been criticised as they may “in the ‘best-case’ scenario have the character of a general exchange of information [...] and in the ‘worst-case’ scenario deteriorate to a political settling of scores” (Amtenbrink and Markakis 2019); additionally, due to time constraints, they often do not allow for effective follow-up questions and leave plenty of room for elusive replies. Letters to the SSB Chair have experienced a dramatic drop in usage and – due to their public nature – do not seem to represent the best forum for sharing insights on supervisory practices and decisions. Annual reports, while providing a suitable means for the ECB to summarise the progress achieved and for the EP to list its priorities and concerns, are mostly aimed at the general public and therefore do not lend themselves to constructive interaction on thorny issues⁴⁹.

Against this background, the EP and the SSB Chair may want to consider ways to improve informal interactions where supervisory practices can be discussed in depth, tackling technical issues whenever this is necessary to achieve an informed assessment of the SSM’s choices. Such interactions – while taking place under the supervision of the ECON and SSB Chairs - should rely on the participation of a small group of ECB and EP experts who can commit enough time and effort. On the ECB’s side, a significant contribution may come from functions responsible for designing the strategy and priorities of supervision and for promoting the quality/consistency of supervisory outcomes; this mainly refers to the Directorate Supervisory Strategy and Risk (“D/SSR”), which is tasked with a combination of recurrent assessments (e.g., benchmarking analyses on the SREP results, or the monitoring of follow-up actions regarding supervisory measures) and thematic assessments that are set out in an annual work plan. On the EP’s side, this could lead to an enhanced role for the Banking Union Working Group,

⁴⁹ E.g., when the Parliament expressed its dissatisfaction with the way that the SSB Chair’s selection was dealt with in 2023 (see Footnote 23), the ECB could only reply by reiterating that all formal steps had been followed appropriately (see Footnote 34), and both parties missed an opportunity to discuss improvements in the selection process which may prevent further tensions in the future.

a panel of MEPs monitoring the implementation of the SSM (and SRB), scrutinising the ECB's actions as a bank supervisor and holding meetings with SSM and bank representatives. In order to support the BUWG in discharging its tasks, the involvement of ECON's expert panels could be extended: next to providing periodic analyses and papers, the latter could, e.g., help MEPs to review (redacted) materials received from the SSM, or submit one-page descriptions of emerging topics that the EP may want to raise with the ECB, to exert a more proactive role in shaping the supervisory agenda⁵⁰. Such politically-neutral "one pagers" could inform MEPs about specific risks emerging in the banking sector (specific institutions may also be mentioned by way of example, based on public information); MEPs may then choose to raise those issues with the ECB, e.g. during in camera meetings, providing the supervisor with an opportunity to illustrate in detail all steps that have been (or will be) taken to monitor and redress such vulnerabilities.

This kind of arrangements would also increase the Parliament's capacity to provide in-depth feedback within short time windows, which is a prerequisite for enhancing its involvement *vis a vis* the SSM's actions and policies. Once such a capacity has been built, it would be feasible to ask the ECB, e.g., to provide sensitive draft acts one week before the public consultation starts (so that the final consultation paper may reflect the EP's concerns and requests for clarifications). Similarly, it would be easier to use the four working day gap between the SSM's annual report drafting and its formal presentation to EP to prepare comments and information requests to be discussed with the SSB Chair.

The use of informal, confidential channels has sometimes been criticised as running counter the very meaning of accountability. In fact, it has been argued (Zeitlin and Brito Bastos 2020) that an increase in the provision to EP of confidential information cannot be expected to bring about significant benefits as "secrecy and confidentiality also mean that this information cannot be used to stimulate parliamentary and public debate", leading to reputational sanctions.

Such concerns are only partially justified. Indeed, it could be argued that modern democracies (unlike ancient Athens, where all citizens had to convene on the main square to take decisions) are based on a delegation mechanism whereby elected representatives are entitled to carry out their duties and activities without having to report all steps to voters⁵¹. Furthermore, confidential information can also be used to obtain indications on whether supervisors are acting appropriately (e.g. by implementing supervisory priorities and prudential rules uniformly across banks) and such indications can be used by MEPs to publicly request suitable adjustments in the ECB's practices.

While the use of confidential channels may facilitate dialogue on bank-specific situations, the latter may also be analysed through public-domain data. The ECB may, e.g., provide the EP with studies based on figures taken from financial statements and Pillar 3 reports, as well as from the EBA's "transparency" database⁵², which the SSM could use (and possibly enhance) to address individual situations without raising any confidentiality issues. Additionally, ways could be explored to release supervisory data to the public (including independent analysts and researchers) after some "cooldown" period has elapsed (e.g., one or two years); this would ensure that confidentiality does not translate into opacity, and that all risks and vulnerabilities of the banking sector can be scrutinised by independent outsiders.

⁵⁰ As advocated by (Lamandini and Ramos Munoz 2020).

⁵¹ One may think e.g. of situations where confidential negotiations pave the way to political compromise, avoiding gridlock and leading to legislative initiatives that better serve the citizens' civil, economic or social rights.

⁵² The EBA's transparency database (<https://www.eba.europa.eu/risk-analysis-and-data/eu-wide-transparency-exercise>) covers an open sample (including some 120 EU-based institutions as of today) observed in 2015-2023, encompassing more than 10 million data points.

4.3. Check that the ECB has appropriate incentives to engage in closer interactions

The special independence regime enjoyed by the ECB means that there may be no immediate gain for it, besides showing inter-institutional respect, to seek deeper interactions with the EP. There can be, of course, an interest in spreading awareness among MEPs about regulatory reforms that may remove hindrances and legal uncertainties affecting the SSM's supervisory actions; but this, too, may be limited by the fact that the Commission is the only institution empowered to initiate EU legislation.

Nevertheless, if the interaction between the ECB's supervisory functions and the EP is to prove fruitful, it is necessary to look for topics where the SSM has a real interest in entertaining a closer relationship with lawmakers. Accordingly, areas for interaction and collaboration should be chosen in such a way that the SSB Chair feels that committing time and resources to dialogue-enhancing activities is likely to prove a fruitful investment that is in the best interest of his/her supervisory mandate.

4.4. Consider issuing a non-binding mid-term evaluation of the SSB Chair's willingness to engage with MEPs

The mechanisms designed by the Interinstitutional Agreement, as well as the possibility of invoking confidentiality reasons to withhold information, leave ample room for discretion on the ECB's side. This means that hard rules may be less important than the SSB Chair's willingness to share information with the EP, and the way he/she addresses its accountability duties in practice. Even more so if, as advocated above, informal dialogue is to be further explored to make interactions more direct and productive.

As the Chair's mandate is not renewable, its behaviour cannot be sanctioned by MEPs by refusing to endorse a second term of office. Nevertheless, ways should be sought to inform the public about the Parliament's assessment of the SSB Chair's attitude towards accountability, possibly by including an *ad hoc* section in the EP's Banking Union report when the Chair is halfway of his/her term of office.

Such an assessment should be as objective and reasoned as possible; it should take the form of a scorecard where the various aspects affecting the quality of the SSM/EP interaction (e.g., availability for closed-door meetings, willingness to discuss bank-specific matters of general relevance, preparedness to share draft documents and to listen to requests by MEPs, readiness to engage over the EP's requests for justification and change, transparency towards the general public, etc.) should be evaluated on the basis of how they compare with the standards met by previous SSB Chairs. There should be an incentive to fairly recognise any progresses made, as they would provide a benchmark for assessing the next office holder and ensure that improvements are not discontinued or reversed. Input from parliamentary "veterans" who have come in touch with multiple SSB Chairs should be treasured and leveraged upon. A short list of action points for the second part of the Chair's term of office could be included.

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We first discuss why and how banking supervisors should be held accountable for their activities, then consider the case of the ECB/SSM to report on the academic debate on its faults and merits. We also review the main accountability channels between the ECB and the EP, showing how they have been used since 2014. Finally, we outline some possible steps to improve the ECB's accountability in the short term.

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