



# Political Control and Parliamentary Committees of Inquiry: Strengthening the Quality of Democracy

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## Abstract

In Austria and Germany's parliamentary system, committees of inquiry represent the most comprehensive political control instruments. With the help of these committees, members of parliament can gain precise insight into the work of the government. These insights are necessary when suspicious cases are brought to public attention, from which the government's actions and the abuse of power come to light. Based on a first-ever qualitative case study of investigative committees in Austria and Germany, this article focuses on the results of these parliamentary committees. By scrutinizing these authorities and institutions, the members of parliament acquire extensive knowledge of the actions. This assists in reforms and leads to innovative effects on the democratic quality of the political systems. By comparing these results and with the help of the central analytical framework of Hans Joachim Lauth's 15-field matrix, this study discovers that committees of inquiry can influence all areas of politics, law, and society. This influence occurs primarily through knowledge generation on real political processes, and provides a significant contribution to knowledge democracy.

**Keywords** Committees of inquiry · Quality of democracy · Knowledge and innovation · Knowledge democracy · Political control

## Introduction

At the center of the new forms of democracy are constitutions, which enshrine a country's political system in law, and electoral systems, which provide people with the opportunity to shape policy. The central concepts that these combined democracies are freedom, equality,

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and control. These three dimensions are also necessary when determining the quality of democracy within a country (Lauth, 2004, 96f). Constitutive features of democracy find their expression in the participation of the people. In this article, the dimension of political control particularly, parliamentary committees of inquiry will be examined in detail. On the one hand, the effect of such parliamentary investigations on the quality of democracy will be assessed, and on the other, their innovative characters will be illustrated.

Parliamentary committees of inquiry are particularly important for political control in democratic systems. Through their special investigative powers, they can inspect government files and documents. Thus, their control function extends further than any other parliamentary right of scrutiny.

However, in the media and public, the results of the committees of inquiry are often doubted and presented as irrelevant. The reasons for this include the apparent lack of personnel consequences at the political level and the lack of consequences at the legal level (Keppel 2019).

The following article explores these views through qualitative analysis to examine parliamentary investigations in Austria and Germany. The 2015 reform of committees of inquiry in the Austrian National Council made it possible to have the minority right to set up a committee of inquiry for the first time. In Austria, this followed the practice of the German Bundestag, which has been applicable for decades. This constellation makes it possible to observe the results of the investigations comparatively and pursue the leading research question: What influence do parliamentary committees of inquiry have on the political dimension of scrutiny, and what is the innovative power of this instrument of scrutiny?

The theoretical basis of this study is Hans Joachim Lauth's research on the three-dimensional concept of democracy, using the dimension of control (Lauth, 2004, 32ff) as the theoretical foundation. Lauth developed this concept to determine the quality of democracy and suggested using a 15-field matrix (Lauth, 2015). The indicators that are relevant for determining the degree of control are used for the review to illustrate the impact that committees of inquiry can have on the dimension of control. The theoretical description of the dimension of control will thus be subjected to a practical test based on the results from the committees of inquiry, which will also determine its innovative character. Innovation in this study is created primarily by generating knowledge about the agencies and institutions under investigation. The more knowledge obtained, the better the identification of the grievances in the democratic system, which can, in turn, contribute to increasing the quality of democracy.

Based on a theoretical examination of the relationship between democratic quality and control, the “[Introduction](#)” section presents the 15-field matrix in greater detail. The “[Quality of Democracy and Political Control](#)” section of the article examines the parliamentary committees of inquiry in Austria and Germany. Based on these results, the analysis (the “[Control and the Matrix of Democracy](#)”) section answers the guiding research question. It generates hypotheses to guide further quantitative research and establish a concrete classification of the political, legal, and social influences of committees of inquiry. With reference to this, the influence of investigative committees on knowledge democracy (In't Veld, 2010) will also be examined. The generation of knowledge is crucial for a further detailed determination of the

quality of democracy. This adds an additional element to the relationship between knowledge and the quality of democracy.

## Quality of Democracy and Political Control

The measurement and theoretical conceptualization of the quality of democracy evolved from two dimensions (Dahl, 1971) to eight or more (Carayannis & Campbell, 2021; Diamond & Morlino, 2004). However, many “tools” for measuring democracy raise the questions of what should be measured and what has been measured. What is the best method to represent the quality of democracy? Which indicators are essential in this context? What standards should be used to measure them? In recent decades, a wide variety of approaches have been applied, dividing the quality of democracy into quantitative and qualitative variables, as well as the structures of societies, decision-making systems, and increasingly diverse forms of institutionalization of democracy (Abromeit, 2004, p. 73; Campbell, 2019).

The dimensions of freedom, equality, and control are undisputed, regardless of choice in indicators that measure democracy. Moreover, these three dimensions are interrelated; equality and freedom cannot be guaranteed without control.

Limiting political rule is undoubtedly seen in theories of democracy as a necessary dimension, alongside equality and freedom (Beetham, 1994, 28ff). Even in minimalist conceptions of democracy, elections are enshrined as a dimension of control (Schumpeter, 1950, p. 432). Scholars agree that there must be far-reaching possibilities of control, in addition to elections, as a “popular control” mechanism. “Horizontal accountability” has been used to define both narrow and broad conceptualizations. O’Donnell (1999) argues for a narrow understanding of control, in which only state agencies can scrutinize and, if necessary, punish other state actors. On the other hand, Schmitter (1999) argues for a broader understanding, where state and societal actors should exercise control over legal and political criteria. This understanding is already inherent in the two dimensions of legal and political control, as advocated by Dunn (1999, 337ff). It is noteworthy that there are clear distinctions between legal and political control and freedom of information and transparency that support popular control. Dunn emphasizes this when he points out that politics shape both the executive and legislative branches. In this respect, the importance of popular control is more remarkable (*ibid.*, 336f).

To further define the precise needs of the dimension of control, two approaches have been covered: vertical accountability and its return to elections, and horizontal accountability with the submission of political power to the law. However, further distinctions are needed for a more accurate understanding of control, even at these two levels. For example, Beetham (1994, p. 29) adds financial control by parliament to the political and legal control mechanisms. Rudzio extrapolates parliamentary control rights and their extensive possibilities for controlling the government’s work. Parliament must control the efficiency, goals, and legality of government actions (Rudzio, 2019, 210ff). However, decisiveness for this control can only be in the form of transparency. Without insight into government action, parliament—and the parliamentary opposition in particular—cannot exercise sustainable control. This also means that publicity must be created to discuss the

government's actions in the media and civil society (Bühlmann et al., 2012a, p. 521–522).

### Quality of Democracy and the Role of Parliaments

As soon as the role of parliaments becomes relevant for determining the quality of a democratic system, considerable gaps are found in many concepts. This is because parliamentary systems often differ significantly from one another. Parliamentary checks and balances also vary. Therefore, many indicators for determining the quality of democracy do not even attempt to penetrate the micro-level of parliamentary control. Instead, they rely on more general approaches, such as the Transparency International Corruption Index (Lijphart, 1999), the Transparency International Corruption Perception Index (López-Pintor & Morlino, 2005), or simple formal and substantial indicators of the quality of democracy that measure *inter alia* trust in political institutions (Mungiu-Pippidi, 2005).

Often, the focus is purely on the existence of institutions, such as in the Polity Index, but this does not adequately capture the reality of the respective constitution or the practical impacts of institutions. However, empirical studies cannot be expected to delve into the depths of the respective systems consistently. It could be cumbersome to capture the details of parliamentary rules and constitutional reality. For example, Bühlmann et al. (2012b, p. 151–153) used 18 components out of 51 subcomponents and 100 indicators to attempt to eradicate these inaccuracies, but remain general in their measurement of parliamentary scrutiny capacity. This approach also relies on the Corruption Perception Index (Transparency International) for transparency, and general components, such as the disclosure of party finances or the willingness to communicate transparently.

It is difficult to measure the effectiveness of the legislative branch's control over the executive branch based on specific indicators. All parliaments in Western democracies have different levels of control, so it is not possible to quantitatively assess their actual impact.

### Control and the Matrix of Democracy

One contribution addressing the depth of the dimension of control is that of Hans Joachim Lauth. “The term ‘dimension’ offers a conceptual elegance that can be applied ‘transtheoretically,’ which means that different theories of democracy can be related and mapped comparatively in terms of these dimensions. Metaphorically speaking, dimensions behave like ‘building blocks’ for theories and the advancement of theory.” (Campbell et al., 2015, p. 471) Based on these primary classifications and clarifications of the dimension of control, Hans Joachim Lauth (Lauth, 2015, 9ff) sees the need for a strict separation of the abovementioned levels, so that the actors of control can be clearly determined. His conception focuses on legal control surrounded by political control. In political control, Lauth distinguishes between two crucial actors: state and societal actors. The societal actors consist of citizens, the media, and intermediary organizations that publicly violate the rule of law or initiate legal action. These actors are at the periphery of their conception, while the

institutional state and political actors directly surround the legal dimension. Therefore, it involves all these actors, whether through the participation of social actors, as far as state actors are concerned (e.g., through elections), or through the right of initiative of the first two actors, to enable usage of the political and civic rights of control (ibid., 9f). The rule of law is fundamental for Lauth as the central core of control. It defines the framework for political decisions and binds state action to the rule of law. It also requires that all control measures that monitor the first two areas observe the rule of law principles. Therefore, control can only be classified as functioning if all political levels are adequately controlled.

To precisely determine the quality of democracy, Lauth's concept calls for five institutions in addition to the three dimensions (Lauth, 2015, 12ff). Building on this, Lauth conceives a 15-field matrix, making it possible to conduct a detailed analysis of each aspect (see Table 1). The methodology of the democracy matrix should enable a systematic development of the concept of democracy in all fields and the indicators defined therein. Each box describes a specific characteristic of democracy, which can be seen in the names of each box.

The control dimension is based on the scrutiny of government activity. In particular, transparency is most important when implementing control, more than for any other matrix level. Thus, transparency is a central prerequisite for the control of government actions (ibid., 2015, 9f).

### The Matrix Field of Control

In his conception, Lauth examines the contents and categories of single fields (Lauth, 2004, 327ff). For this study and the methodological approach presented here, the fields of control will be summarized in more detail. Central to this are fields related to political control in parliamentarism, as well as those representing the possible spheres of influence for committees of inquiry.

Starting from the field of decision-making procedures (1/3), the central question for Lauth is the extent to which these decision-making procedures are controlled. Thus, the government is controlled by holding fair elections, which require the existence of an independent, competent, and effective electoral review commission, and the participation of civil society actors and opposition parties within this control. This function is deficient if there is no oversight body or its existence and judgments are not legally binding. To this end, Lauth also chooses the Independent Electoral Review Commission as the so-called limited indicator in national elections (Lauth, 2004, p. 346, 2015, 19f).

Political control by opposition parties is the second limiting indicator (2/3). This raises the question of whether the actors use their full potential to control the government in all areas of activity. Sufficient transparency of government action is crucial here because then only can comprehensive control occur. If there is a high degree of non-transparency, the possibility of control is weak. Transparency can be considered exceptionally high if the formal requirements for control are legally secure and do not depend on the goodwill of those being controlled. This form of control occurs primarily at the political level. Legal consequences are required only to a limited extent (Lauth, 2004, 346f).

**Table 1** Matrix of democracy (Lauth, 2015, p. 15)

<b>Dimension Institution</b>	<b>Liberty</b>	<b>Equality</b>	<b>Control</b>	<b>Institindex</b>
Procedures of decision	Free elections and referenda (no restrictions) 01 1/1	Equal chance of participation; equality of votes 06 1/2	Control exercised by independent election review board 11 1/3	
Regulation of the intermediate sphere	Freedom of organization 02 2/1	Equal rights of organization 07 2/2	Control by parties and civil society 12 2/3	
Public communication	Freedom of communication 03 3/1	Equal chance to participate 08 3/2	Control by media (independent journalismism) 13 3/3	
Guarantee of rights	Free access to court 04 4/1	Equal rights and equal treatment in court 09 4/2	Effective court order supreme 14 4/3	
Settlement and implementation rules	Effective government (parliament, rational administration) 05 5/1	Equal treatment by parliament and administration 10 5/2	Separation of powers (parliamentarian opposition, second chamber, audit division) 15 5/3	
Dimex				Dimex

The field of communication and control (3/3) should demonstrate the extent to which communication freedoms are used to exercise control. Essential factors in evaluating this category are transparency of media access to information about government actions. If transparent access is not available, investigative journalism can provide compensation. The more that critical actors are involved in this oversight, the more thorough the evaluation. Only when there is no discernible evidence that the media are performing a control function can the category be considered inadequate (ibid., 347f).

The purpose of this category is to examine whether judgments are effectively enforced against all institutions across all political levels (4/3). The focus here is on the rulings of the Supreme Court, which can regulate all state bodies because of their position within the system. The only criterion is the verification of the rule of law in government actions. Political control is not examined because it does not fall within the jurisdiction of the judiciary (ibid., 348f).

Effective audit offices and functioning parliamentary control rights are the final criteria for determining the control dimension (5/3). Specifically, it concerns auditing administration by quasi-autonomous bodies. The government's central areas of action (i.e., finance and legislation) must be controlled. It is crucial to determine the powers that institutional actors have and the extent to which they can be used. An example of parliamentary control is the passage of legislation: Does the timing of draft legislation allow the opposition to obtain sufficient information about the proposed legislation? It would not be acceptable if laws or constitutional amendments were passed on the day they were introduced. Control of the budget by parliament and the Court of Audit is another crucial factor. Not only is the correct use of funds important, but it is also efficient. Although the reports that are produced have no legal consequence, politicians should incur legal consequences for proven illegal behavior. Oversights in this area are insufficient if parliaments do not have formal rights, which is not the case with other oversight agencies (ibid., p. 349) (see Table 2).

Lauth developed comprehensive criteria in his conceptualization of the oversight dimension, which assists with the current consideration of committees of inquiry. In a comprehensive discussion, he showed why control requires precise differentiation, and how this affects the quality of a democracy. In particular, limited indicators offer the possibility to measure the state of single institutions in a democracy accurately.

**Table 2** Institution control measures (Lauth, 2004, p. 349)

<b>Dimension</b>	<b>Control</b>
<b>Institutions</b>	
Decision-making processes	Independent committee that scrutinizes the voting process during national elections
Institutional intermediation	Political control through opposition parties
Public communication/ public opinion	Press that is critical of the government
Effective rule of law	Effective jurisdiction over other government institutions
Setting and implementation of laws	Effective audit courts and parliamentary controlling rights

Therefore, it makes sense to use Lauth's approach for a detailed examination of one instrument of political control: the parliamentary committee of inquiry. At first glance, these committees can be classified as 2/3 and 5/3. Further analysis will demonstrate how the influence on these fields can be represented precisely, and whether further influences on other fields of the matrix are possible.

## **Committees of Inquiry Within the Austrian National Council and German Bundestag**

To better illustrate the actual impact of committees of inquiry on the dimension of control, we first examine the legal basis from a political science perspective. Here, the role of the opposition in establishing a committee of inquiry is important, as political control by opposition parties (field 2/3) and effective parliamentary control rights (field 5/3) are relevant indicators. Since the reform of 2015, four committees of inquiry have been established in the Austrian National Council. In this article, three investigations are now subjected to qualitative analysis based on their final reports.

The following committees of inquiry of the Austrian National Council were used for the qualitative analysis:

- Hypo Committee of Inquiry
- Eurofighter Committee of Inquiry
- BVT Committee of Inquiry

During 2015–2020, eight parliamentary investigations took place in the German Bundestag, some of which had already been established in 2014. Since it is difficult to establish a limitation or comparability of the investigation topics, the Bundestag investigations served as control objects in the ensuing investigation. The long tradition of minority rights in committees of inquiry of the German Bundestag is particularly suitable for such a control function. This is especially applicable because the current rules of procedure in the Austrian National Council are similar to those of the German Bundestag.

### **Minority Rights**

Since the reform of 2015, the Austrian National Council established a committee of inquiry for minority rights. In concrete terms, this means that a quarter of the parliamentarians (46 out of 183) can demand that one be set up. This reform has massively strengthened the control options of opposition parties in Austria. The model for this reform was minority rights in the German Bundestag. As early as the Weimar Republic, a quarter of parliamentarians could initiate a parliamentary inquiry. Max Weber was the decisive proponent of such a substantial right of scrutiny, whose model came from English parliamentarism. In an analysis, he recognized that a simple right of inquiry would bring benefits, and that by resolving the tension between



parliament and government, fewer inquiries would be conducted. This is because the government is supported by a majority in parliament and conducting investigations would only be detrimental to the government. Therefore, he advocated minority rights in parliament to allow the opposition to have continuous control over the government's work (Weber, 2011/1918, p. 62).

The German committee of inquiry procedure is regulated by law and structured as an ordinary parliamentary committee (Bundestag 2019a, p.39-40). The reform of the Austrian National Council was also based on these rules of procedure, although particular features were noted (Konrath & Neugebauer, 2015). For example, the presidents of the National Council chair the committee of inquiry and are advised by an independent procedural judge. In addition, the system of the chairman being elected by parliamentarians, which is still common in Germany, was abolished to allow for a higher degree of neutrality in the chair.

Differences between the procedural rules of the German Bundestag and the Austrian National Council are also evident by how the public is treated. While the Bundestag generally allows public access to sessions, the National Council only allows media representatives to do so. Similarly, audio and visual recordings are permitted in committees of inquiry of the Bundestag, provided that two-thirds of the committee members gave their consent. In the National Council, such recordings are not permitted. This broad access to meetings is also reflected in the follow-up reporting of the committees of inquiry. The Bundestag provides information on developments of the daily committees of inquiry, while the Austrian parliamentary media publish irregular summaries of the proceedings.

Minority Rights in the German Bundestag experienced strengthening during the 18th legislative period. Since the governing factions of the Sozialdemokratische Partei Deutschland (SPD), Christlich Demokratische Union (CDU) / Christlich-Soziale Union (CSU), held 504 of the total 631 seats in the Bundestag, the opposition factions only possessed around 20% of the total number of seats. However, various minority rights, such as establishing a committee of inquiry, can only be applied in the Bundestag if at least 25% of the parliamentarians support corresponding motions. In this sense, for the 18th parliamentary term, the legal regulations on applying minority rights were adjusted so that the opposition could continue to exercise its minority rights (Bundestag, 2019b).

In addition to the long standing-tradition of minorities in the German Bundestag, the membership of committees in the Bundestag and National Council also differs. While in the Bundestag, the members for the committees of inquiry are calculated using the Webster (St. Lague/Schepers) procedure, the Austrian National Council resorts to the D'Hondt procedure. Thus, the membership numbers for committees of inquiry vary significantly. For example, in the XXVI legislative period, out of 18 committee seats, the largest parliamentary group held six seats, while the minor parliamentary groups held only one seat (Parliament, 2020). Since the Webster procedure favors smaller parliamentary groups, the membership in the 18th legislative period in the German Bundestag was as follows: from a total of eight seats, the largest parliamentary group CDU/CSU received four seats, the SPD two, the Greens one, and Die Linke one.

## Results of Committees of Inquiry

The procedural rules show minor but significant differences between the German Bundestag and the Austrian National Council. For the public, one can speak of a higher level of information provided in the German Bundestag and a more public mode of operation of the committee. This is not to diminish the transparency of the committees of inquiry in the National Council; still, the full provision of information to the public by parliament is an essential factor when assessing the dimension of scrutiny.

Similarly, the membership of committees of inquiry in the German Bundestag is biased in favor of the parliamentary minority, rather than the National Council.

The following sections use qualitative analysis of past committees of inquiry in the Austrian National Council, to provide an exemplary overview of their findings.

### Hypo—Committee of Inquiry

This committee of inquiry was the first one formed after the reform of the rules of procedure in the Austrian National Council. It was set up at the request of a minority. The center of the investigation was the political responsibility of nationalizing the credit institution, Hypo Alpe Adria. The Republic of Austria had to save the bank from bankruptcy in December 2009 by nationalizing it and raising billions of Euros. In addition, parliamentarians investigated key issues, such as the control and audit activities carried out by federal bodies and the clarification of the responsibility of state bodies. A total of 52 single audit chapters were prepared (Parliamentary Correspondence, 2015a).

After 79 meetings, 142 interviews with 124 respondents, and a review consisting of 16 million A4 pages of documents, the procedural judge submitted the first and final report (Parliamentary Correspondence, 2016a, 2016b).

The procedural judge formulated recommendations, as required by the rules of the procedure. This brought about innovation that intended to point out grievances to policymakers and help eliminate them. During the formulation of these recommendations, development became evident, which can be seen in many other committees of inquiry: alongside the ongoing investigation, several laws and regulations were passed at an international and national level, so that recommendations of the committee of inquiry were already anticipated as a result. In the Hypo Committee of Inquiry, these concerned the tightening of Basel standards, rules on bank insolvencies, the creation of a single resolution mechanism and a single resolution fund, and a reform of the law applicable to auditors (Parliament, 2016, p. 460). In addition to the new laws already enumerated, the procedural judge recommended six amendments for discussion by the National Council after the publication of the final report:

- Uniform calculation and limitation of liabilities for local authorities resulting from the nationalization of Hypo Alpe Adria: the inconsistent methodology for calculating the level of liabilities and caps that exist in Austria prevents a comparison within Austria and does not provide satisfactory transparency.

- Insolvency law for the provinces and municipalities: according to the procedural judge, the lack of such a right leads to misguided incentives and, on the part of the federal states, entails the risk of unsustainable, careless economic misconduct, since people speculate on help from the federal government in an emergency.
- Precise regulation of the role of state commissioners: state commissioners have an auditing function and are sent by the Minister of Finance to banks whose balance sheet totals exceed a certain threshold. However, their actual role is inadequately regulated, as there are no powers other than the right to inspect documents of the supervisory board and the right to object to resolutions of the supervisory board (*ibid.*, p. 286–291). Therefore, the procedural judge pleaded for a clarification of the role, whether by using an expansion of the audit powers or a general abolition of the function.
- Optimization in cooperation, procedures, and responsibilities of the supervisory bodies: as was already evident in the case of the state commissioners, the Hypo Alpe Adria case was based on poor cooperation between the responsible supervisory bodies. Information was not forwarded, and the rights to audit and inspect were not exercised. The procedural judge ruled this to be systemic inaction on the part of the authorities (*ibid.*, p. 461).
- The procedural judge recommended clear rules for auditors, due to their dubious role in the audit of Hypo Alpe Adria. The commissioned auditors would have had a conflict of interest and objectives since the bank commissioned and paid the auditors. The procedural judge recommended ending the resultant economic dependence of the auditors on the banks using a law. For example, the first approach would be a limitation on the maximum number of audits for annual financial statements by the same auditor or the same audit firm.
- The final recommendation of the procedural judge was a transparency register for ultimate beneficiaries, so that international companies and trust constructs could no longer be used to conceal economic beneficiaries (*ibid.*, p. 460–462).

## **Influence on the 15-Field Matrix and Dimension of Political Control**

The first effect of the Hypo Committee of Inquiry does not stem from the recommendations of the procedural judge, but more generally, from the reform of the procedural rules of the committee of inquiry. With recourse to the Constitutional Court on contentious issues (e.g., the submission of evidence), the scope of scrutiny by committee members can be significantly increased. In addition, a new quality of transparency was created, as demonstrated by a ruling during the redaction of files. The Constitutional Court ruled that when files were submitted to a committee of inquiry, they were inadmissible (Parliamentary Correspondence, 2015b). In the 15-field matrix, this can lead to an impact on fields 4/3 and 5/3. Parliamentary control, which starts with the committee of inquiry, is strengthened. Likewise, this reform influences field 2/3. The opposition's rights have been significantly strengthened, and government action can be subjected to more comprehensive control in the

form of legal certainty through the Constitutional Court and the associated increased transparency.

In analyzing the six recommendations formulated by the procedural judge, it was possible to identify the following effects at the legislative level:

- Toward the end of the parliamentary inquiry, the National Council decided to establish authority for auditors that was free from instruction. They implemented a primary European Union directive; however, its implementation consistently accelerated the investigations into Hypo Alpe Adria that was ongoing at the time (Parliamentary Correspondence, 2016a, 2016b).
- In general, the audit professions were newly regulated, and the connection to the simultaneous exercise of the tax advisor's function was decoupled.
- This was followed by the introduction of a registered law for beneficial owners in July 2017, as required by the procedural judge and an EU regulation, as well as the tightening of the Money Laundering Act, a restructuring of the Financial Market Supervisory Authorities Act, and an amendment to the Banking Act (Parliament, 2017a, 2017b). The National Council reacted to financial and banking crises events, with the pioneering role in legislative projects already taking place at the EU level.

The influence of the Hypo Committee of Inquiry on the dimension of political control can be traced through the examples presented earlier. In addition to the direct influence on fields 2/3, 4/3, and 5/3, concrete laws have been implemented to combat money laundering and better regulate audit procedures of financial institutions. With the help of the committee of inquiry, it was possible to identify issues in government actions and remedy them in certain areas. However, it should be noted that the main findings had already been discussed at the EU level, and concrete steps were taken using regulations and directives. Likewise, the opposition criticized the recommendations of the procedural judge as far reaching and bold (Die Presse, 2016).

## **Eurofighter Committee of Inquiry**

The procurement of the Eurofighter-Typhoon combat aircraft was the subject of three committees of inquiry in the Austrian National Council. Government politicians were accused of corruption, although these accusations were never substantiated. The final committee of inquiry on this took place in the XXVI legislative period, from April 19, 2018, to September 25, 2019, and followed up on the second committee of inquiry (March 29 to September 20, 2017). The procurement process was examined in detail, and the associated countertrade for 4 billion euros. In 31 meetings, 51 respondents were questioned. Approximately 2 million pages of documents were submitted to the committee for examination (Parliamentary Correspondence, 2019a).

The final report submitted by the procedural judge comprises 483 pages and displays an inventive step compared to the Hypo Committee of Inquiry. A much clearer structure was followed by the procedural judge through both a finding facts and evaluating evidence. Thus, an actual assessment of political events was conducted, for the first time, by a committee of inquiry. The procedural judge identified severe

misconduct on the part of the political decision-makers in the handling the purchase and the drafting the countertrade agreement. The roles of each relevant official were examined and evaluated. The company that offered jets for sale was also evaluated. The large number of offshore companies involved in executing the countertrade and the often-occurring proximity to Austrian politicians gave rise to the suspicion of corruption or covert party financing in many cases (Parliament, 2019a p. 247–269 & p. 287–288). The committee of inquiry could not uncover concrete evidence (ibid., p. 282–285), but the results of the investigation revealed clear political responsibilities, which resulted in possible violations of the law (ibid., p. 272–277). These violations were uncovered in the purchase itself and the drafting of the countertrade agreement (ibid., p. 280–282).

The procedural judge drafted nine recommendations to improve transparency in military procurement and improve documentation requirements in government departments. In particular, they addressed the following issues:

- a The creation of more apparent structures in military procurement and centralization of responsibilities.
- b Better documentation of procurement processes.
- c Statutory disclosure of vendor requirements when entering into military procurements.
- d Counter transactions to be capped at 100% of the contract value.
- e More staff resources to review countertrades within the relevant ministry.
- f Clearer wording in invitations to tender and contract conclusions.
- g General avoidance of ambiguous terms.

### **Impact on the 15-Field Matrix and the Dimension of Political Control**

The third committee of inquiry into combat aircraft procurement stood out from the Hypo Committee of Inquiry, primarily due to its in-depth analysis of political accountability. This development demonstrated the potential of the investigative instrument and reform of the rules of procedure. In both the Ministry of Defense and the Ministry of Finance and Economics, the procedural judge was able to identify non-transparent and, in certain cases, unlawful behavior on the part of political decision-makers. Thus, the committee of inquiry had a powerful impact on the 2/3 field and the disclosure of government actions.

In contrast to the Hypo Committee of Inquiry, the procedural judge avoided making specific recommendations and calling for legislative changes. One issue that made headlines during the investigations and beyond was the criminal proceedings that ran alongside the inquiry committee. Since 2011, the public prosecutor's office has investigated many defendants in connection with countertrade transactions and suspected money laundering, bribery, and corruption. Documents provided to the committee indicate attempted political influence on these criminal proceedings (Klenk, 2019; Parliament, 2019b). The independence of the judiciary is one of the main pillars of a functioning political system and must be valued accordingly (Lauth, 2004, p. 95–97). All the more decisive were the steps and measures taken

after the committee of inquiry, which ultimately led to a restructuring of the Austrian Ministry of Justice (Die Presse, 2020) and deprived the significantly criticized person responsible for his power.

## BVT—Committee of Inquiry

This investigation was set up at the request of a parliamentary minority. The decisive factor was a house search at the Federal Office for the Protection of the Constitution and Counterterrorism (BVT<sup>1</sup>) on February 28, 2018. The search caused an outcry in domestic politics, as the BVT was a hybrid institution of the secret service and the police. The reasons for this search seemed manifold, but the political opposition suspected an attempt to exert influence on the BVT by Freiheitliche Partei Österreich (FPÖ) Interior Minister Herbert Kickl. Accordingly, questions were investigated as to whether there had been any attempted political influence in the BVT. Hence, postings were investigated, house searches were examined, and the delayed destruction of sensitive files was questioned (Parliament, 2019c, p. 14–16).

During the investigation, 102 interviews were conducted, and 88 respondents were interviewed. In addition, authorities submitted 340,000 pages of files. The outcome of the inquiry varied, although all parties expressed some agreement that further research on the issue should follow. Different perceptions were particularly evident between the governing parties and the opposition. The opposition and FPÖ located networks within the BVT, close to the Österreichische Volkspartei (ÖVP). The party of Chancellor Sebastian Kurz, on the other hand, saw gross negligence on the part of the then Interior Minister Herbert Kickl (Parliamentary Correspondence, 2019b).

The questioning of the witnesses and the final report of the procedural judge revealed misconduct on the part of the Ministry of the Interior and the Ministry of Justice. According to the procedural judge, the investigating public prosecutors hastily carried out a house search. Owing to the artificially high speed and considerable deficiencies in the planning and execution of the house search, enormous damage was created for the intelligence service in Austria (Parliament, 2019c, p. 280).

In the BVT itself, as well as the Ministry of the Interior, grievances have been revealed predominantly in the areas of personnel management and data security. The BVT staff showed negligent handling of sensitive data. In some cases, classified files were lying around freely in offices, and some employees had even taken protected data home with them (ibid., p. 282).

Concerning the allegations of political networks, the procedural judge noted plenty of circumstantial evidence, but no clear proof. In any case, the procedural judge did not find it questionable that political parties wanted to fill leadership positions with people they were familiar with. However, this should be applied only if no other more suitable persons are available. The neutrality of an office can only be guaranteed if appropriate importance is permanently attached to professional suitability (ibid., p. 284–285).

<sup>1</sup> Original German: *Bundesamt für Verfassungsschutz und Terrorismusbekämpfung BVT.*

Following the findings of the study, six recommendations were formulated by the procedural judge (*ibid.*, p. 288–289):

- a) Standardization of information security is not uniformly regulated between the Ministry of Justice and the Ministry of the Interior. Gross deficiencies were found here, particularly in the handling of classified files.
- b) Legal protection during investigations must be evaluated, especially concerning the adequate protection of fundamental rights.
- c) The reporting system of public prosecutors must be subjected to a review.
- d) Personnel decisions in ministries must be sufficiently documented and standardized. There is a lack of transparency and opportunities for retrospective review.
- e) Ministries should develop uniform standards for documenting internal communications.
- f) As with the procedural judge in the Eurofighter committee of inquiry, the judge criticized the short deadlines in preparing the final report.

## **Influence on the 15-Field Matrix and the Dimension of Political Control**

The results of the BVT Committee of Inquiry showed a classic reappraisal of internal procedures of ministries, which undoubtedly corresponded to the lean indicator defined in field 2/3 by Lauth. The opposition demanded results at the legislative level, but these could not find a majority vote in the National Council. The initiatives of the Sozialdemokratische Partei Österreich (SPÖ), Das Neue Österreich und liberales Forum (NEOS), and JETZT included all the findings of the committee of inquiry. They called for changes in the organization of the Ministry of Justice, more political control of the intelligence services, and public hearings when filling senior positions in the civil service (Parliamentary Correspondence, 2019c, 2019d). Unfortunately, the early election meant that relevant initiatives could no longer be implemented. However, the new Minister of Justice, Alma Zadic (Greens), returned to the call for a reorganization of the Ministry of Justice, which was initiated in May 2020 (Eberhardt, 2020). Zadic, before her candidacy with the Greens, was a parliamentarian for the JETZT Party, which also introduced the motion for reorganization in the summer of 2019. Zadic was also a member of the BVT Committee of Inquiry and was thus able to gain a more immediate impression of the events. Thus, there was an evident influence of the committee of inquiry on this restructuring, which simultaneously implied a strengthening of the independence of the judiciary in Austria.

## **Committees of Inquiry of the German Bundestag and Their Influence on the Dimension of Political Control**

In the comparable period, five committees of inquiry were set up in the 18th legislative period of the German Bundestag, two of which are examined in more detail in this article. These were globally known topics, such as the spying activities

of the National Security Agency (NSA) and the Bundesnachrichtendienst (BND) (resulting in NSA-Committee of Inquiry) or the investigations surrounding the National Socialist Underground (NSU) terrorist network.

Suppose one compares the final reports of the investigations of the Austrian National Council with those of the German Bundestag. In this case, one can observe a significant scope of the reports of the Bundestag. Likewise, a higher level of detail can be seen in the report's findings and assessments. The final report on the NSA committee of inquiry vividly illustrates this (Bundestag, 2017a, 2017b). In addition to these extensive reappraisals, it also provides an informative account of the consequences already drawn at the government and agency levels during the ongoing investigations (Bundestag, 2017a, 2017b, p. 1085–1106).

In contrast to the final report of the procedural judge in the Austrian National Council, the report in the German Bundestag does not make direct recommendations; only assessments are made. Therefore, the report delves into the consequences and reforms already taken and less into recommendations for the future. The formulation of recommendations was carried out in the NSA Committee by the experts appointed to the committee and the statements of the opposition.

In the general part of the committee, the experts made 11 recommendations on data and communications security (*ibid.*, p. 403–412). They also reformed the BND Act after uncovering illegal wiretapping by the BND (*ibid.*, p. 1388–1392). In addition, the parliamentary control committee, which carries out political monitoring of the BND in the Bundestag, was reformed and restructured to carry out control measures more effectively (*ibid.*, p. 1392–1393).

The reform of the BND Act was a significant consequence for the committee of inquiry, who were predominantly made up of the two governing parties CDU/CSU and SPD. The intention was to create missing legal regulations for the BND's strategic telecommunications reconnaissance. The criticism of the opposition and media was then obvious (*ibid.*, p. 1696–1697; Biermann, 2017). This new law, which was a direct consequence of the investigative shot, also became the target of a complaint before the German Constitutional Court. The latter found that the reform was contrary to fundamental rights and violated the freedom of the press and the fundamental right of telecommunications secrecy (BVerfG, 2020).

Another well-known committee of inquiry in the 18th legislative period was on terrorist attacks by the NSU in Germany. In two subsequent investigations, the parliamentarians attempted to shed light on the *modus operandi* of the executive branch and the Office for the Protection of the Constitution. The goal was to uncover weaknesses and errors within the authorities and remedy them through policy measures (Bundestag, 2017c, p. 977–979). The committee formulated 47 recommendations for the federal government in the first committee of inquiry regarding events triggered by the NSU. With the start of the 18th legislative period, all parliamentary groups were reaffirmed as a motion, and the government was legally obligated to implement them (Bundestag, 2014). This was followed by the federal government's draft legislation to implement the recommendations in the same year, which was finally adopted on March 19, 2015, by the CDU/CSU



and SPD government coalition (Bundestag, 2015a). The monitoring of whether the government implemented the legislative resolution was followed by a small question from the Freie Demokratische Partei (FDP) (Bundestag, 2019c) and, earlier, by a major question from the Die Linke Parliamentary Group (Bundestag, 2015b). When the federal government answered the major question (Bundestag, 2016) and the minor question (Bundestag, 2019d), it became clear that significant reforms had taken place in many areas of the executive branch and the Office for the Protection of the Constitution. New institutions and clearinghouses were established, preventive measures were taken, and training in the executive branch was reformed.

## **Influence on the 15-Field Matrix and the Dimension of Political Control**

The two committees of inquiry of the German Bundestag are particularly impressive because of their extensive final reports and detailed investigative events. However, if we look at the influence on the dimension of control, it can be observed on many levels, as conceptually envisaged in Lauth. Political control by opposition parties is present (field 2/3), although there were cases, particularly in the NSA Committee of Inquiry, where the government parties prevented the delivery of files. Similarly, witness summaries were prevented by the majority of committee members (Bundestag, 2017b, p. 1283, p. 1394–1395, p. 1403–1404). Accordingly, this approach is also contrary to the requirements of government transparency and access to information by a parliamentary committee of inquiry, as defined by Lauth (2004, p. 87).

The two investigations analyzed are relevant to two other events, as practical examples of the influences within the dimension of control. First, the fact that the BND law enacted by the federal government violated fundamental rights demonstrated effective jurisdiction (field 4/3) by the Federal Constitutional Court. Legal control thus regularizes the consequences of political control.

Second, the comprehensive recommendations of the NSU Committee of Inquiry and their implementation by the government show an exemplary procedure for parliamentary control. The aim is to expose and correct irregularities in government actions, which occur largely around the NSU investigation.

## **Analysis**

The comparative qualitative analysis of parliamentary committees of inquiry revealed several influencing factors in the dimension of scrutiny. On the one hand, extensive investigative powers mean that there is a high degree of transparency. Transparency refers to the disclosure of government actions to parliamentarians. Second, committees of inquiry create a coherent picture for the public through final reports. This picture is put together like a jigsaw puzzle. Each interview conducted and each document examined adds another piece to the puzzle.

A closer look at the final reports also revealed that recommendations did create legislative changes and reforms for government institutions. The NSU Committee of Inquiry provided a particularly vivid example, which led to far-reaching legislative changes and structural reforms in the executive branch. However, the ongoing involvement of a high-ranking Austrian Ministry of Justice official in various questionable decisions could also be traced through the Eurofighter and BVT Committees. This ultimately led to the restructuring of the Ministry of Justice and the demotion of the official from their position (see the “[BVT—Committee of Inquiry](#)” section).

The results of parliamentary investigations also have a demonstrable impact on the political, legal, and civil society levels. From a qualitative perspective, they reveal the internal interrelationships of the micro-level dimensions of democracy that would not be captured quantitatively by numerous other indicators.

### **What Impact Do Parliamentary Committees of Inquiry Have on the Political Dimension of Control?**

It is clear that minority rights exist in the Austrian National Council and German Bundestag; intermediary mediation/control (field 2/3) has been particularly strengthened. Opposition parties can thus exercise more extensive control and scrutinize the government’s actions comprehensively. This also creates greater transparency for the public, which other parliamentary control instruments cannot provide.

Along with the strengthening of field 2/3, rulemaking and rule applications are also strengthened (field 5/3). Although Lauth does not specify the criteria for the degree of fulfillment in this field (see the “[The Matrix Field of Control](#)” section), several factors are at play because of the far-reaching control possibilities of a committee of inquiry. The fact that ministries are legally obligated to provide files and documents to a committee of inquiry automatically provides committee insight into all activities of the ministries. A committee of inquiry can thus subsequently check whether parliamentary inquiries have been answered correctly by the ministries, and whether the Court of Audit or other auditing bodies have received the correct information. However, investigative committees also provide the media (field 3/3) with extensive opportunities for scrutiny. Furthermore, the creation of transparency enables civil societies to hold public discussions. Their results, like those of the committees of inquiry, can lead to extensive innovative reforms.

This qualitative analysis allows for the generation of the following hypotheses for further research:

#1: The more specific the recommendations from a committee of inquiry, the more likely the government will implement them.

This hypothesis could be generated when comparing the final reports of the Austrian National Council’s investigations, particularly between the Hypo Committee of Inquiry and the Eurofighter Committee of Inquiry. While the final report

of the Hypo Committee of Inquiry made precise recommendations, those of the Eurofighter Committee were formulated in more general terms. More than half of the recommendations in the Hypo Committee of Inquiry report were implemented, whereas no implementation of recommendations from the Eurofighter Committee report was detected. If one compares the investigations of the German Bundestag, then the NSU Committee stands out. It created 47 concrete recommendations for the federal government. The latter was prompted to implement them using legislative resolution, monitored by parliamentary inquiries from the opposition (see the “[Committees of Inquiry of the German Bundestag and Their Influence on the Dimension of Political Control](#)” section).

#2: The more parties join the recommendations in a committee of inquiry, the more likely the government will implement these recommendations.

This hypothesis can be derived primarily from NSU Committee events. Through a motion supported by all parties, 47 recommendations were drafted and implemented.

#3: The more significant an object of investigation is across national borders, the more likely recommendations will be implemented.

Especially in investigations such as the one on Hypo Committee of Inquiry or NSA, it became apparent that the high level of international interest and cross-border issues often prompted governments to act quickly. Laws and reforms were initiated during both the Hypo Committee of Inquiry investigation and the NSA committee. In addition to the international pressure, federal investigations have also accelerated these reforms.

#4: The more media and civil society are involved in the investigation, the more likely political institutions are to push for reforms and innovations.

Creating transparency is a crucial factor for all indicators that measure the quality of democracy. Although standard measurements always focus solely on corruption, the information provided by committees of inquiry offer a glimpse into the mechanisms of a state and its rulers. Moreover, through public discussion of grievances, civil society is involved in resolving them, and innovative reforms can improve the quality of a political system in the long run.

The four hypotheses presented are intended to guide further research and examine the central role of generating knowledge. As introduced by in't Veld (2010, p. 1–12), committees of inquiry reveal the significance of generating knowledge and the influence of knowledge democracy. The relationship between knowledge production and dissemination is particularly vivid when provided to inquiry committees. When they focus on the processes that led to political malfeasance, they demonstrate the power of political control. Moreover, generating this knowledge shows that actual political processes often do not match the formal facade. Factual decision-making processes are thus made visible and can be evaluated. If necessary, they are changed by the

media, civil society, the judiciary, and parliaments. Thus, knowledge democracy can also be identified as a significant factor in determining the quality of democracy.

## Conclusion and Considerations

Based on the qualitative analysis, a positive effect can be observed in several areas of the dimension of control. The creation of comprehensive transparency, the possibility of setting up an inquiry by the parliamentary minority, and the (partial) implementation of written recommendations have a significant influence on the dimension of control and the quality of democracy of the political systems in Austria and Germany. In particular, it is the disclosure of the activities from the government and involved authorities that make committees of inquiry a precious instrument for the quality of democracy. In doing so, parliamentarians use the documents that must be delivered to the committee of inquiry by the ministries. They also resort to the information channels of the media to inform the public.

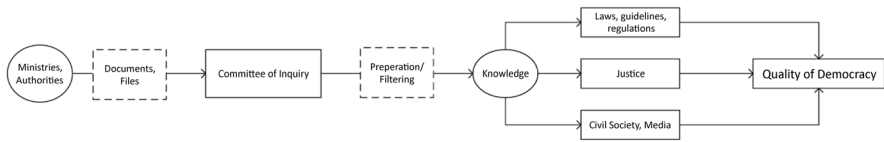
The influence of the media then allows the results of the investigations to be provided to the public. Likewise, the media are crucial players when a debate is held in civil society about the results of committees of inquiry. This allows the population to participate in discussions on systemic reforms. Committees of inquiry can thus guarantee control over the executive branch and engage the entire population in a discourse.

The actual measurement of the committees of inquiry's impact on the quality of democracy seems possible only through a qualitative approach. Moreover, the different parliamentary systems and oversight powers indicate that a general comparison is inadequate. In any case, it must be noted that the typical instruments for measuring democracy only incompletely include the parliamentary level and its mechanisms; thus, they do not test the effects of parliamentary control on their political reality. For example, the criteria for including parliamentary scrutiny could be as follows:

- Can a parliamentary minority demand an investigation, or what rights do the parliamentary minority have regarding investigations?
- How often is a parliamentary inquiry used in a legislative period?
- How extensively must files and documents be submitted to a committee of inquiry?
- Are there restrictions on committees of inquiry that prevent complete oversight?

The examples given here are intended to provide an initial basis for discussion and could be expanded on, deepened, and thus made more precise. In any case, the intention is to illustrate that the dimension of political control has the potential for expansion, which can be used to determine the quality of democracy more precisely.

Of particular interest is the new consideration of knowledge democracy when determining the quality of democracy. The analysis of investigative committees has shown that knowledge generation and transparency are key strengths of this investigative instrument. Further research should not disregard this aspect. The quality of



**Fig. 1** Determining the quality of democracy

democracy should always be viewed in connection with knowledge democracy. The dimension of political control and its actors are essential for generating knowledge, which can benefit all people within a democratic system. (see Fig. 1)

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