

**The Future is Parliamentary?
Parliamentarisation and Legitimation in the EU.**

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Introduction

That the sources of legitimation within the EU are multilevel and multiple is widely accepted (see Beetham and Lord 1998, Bancoff and Smith 1999, Höreth 1999, Hérítier 1999, Kohler-Koch 2000, Lord and Beetham 2001). That these multiple sources of legitimacy ('output', 'technocratic', 'formal', 'democratic') are in contestation with each other, and often incompatible, is equally widely accepted. Our intention in this paper is not, therefore, to embark on a heroic but futile task of assessing the different forms of legitimacy, but instead to examine one variant of legitimation – 'parliamentarism' and the associated notions of a 'dual legitimacy' rooted in representative parliaments at both national and EU levels. Indeed, as we will see below, the EU has consciously sought to develop dual legitimation in practice; through an acknowledgement that both national parliaments and the European Parliament have roles to play in providing authorisation, representation and accountability in the Union. More significantly perhaps, at a normative level, 'parliamentarism' has been claimed to supersede other forms of legitimation in both the discourse of EU and national politicians, and in the ruminations of academic theorists and analysts alike (see Judge 1999:169-77; Lord and Beetham 2001:453-5). Thus much of the political debate surrounding the future (legitimate) political order in Europe revolves around parliaments and the further parliamentarisation of the EU's political process. In part, this is because 'institutional thinking [in the EU] is deeply rooted in constitutional concepts that have developed over a long period of time in Western nation states' (Kohler Koch 2000:527) and, hence, the debate about legitimacy is frequently 'framed' in terms of existing notions of parliamentary representation and parliamentary control.

If the 'future of Europe' is 'parliamentary', we need to understand what 'parliamentarisation' entails and the extent to which the interinstitutional connections between national parliaments and the EP contribute to such a process. Indeed, the paper addresses the issue of 'parallelism' – of parallel but separate processes of parliamentary legitimation – and assesses whether attempts to fuse the two necessarily redress perceived legitimation crises. The specific focus of the paper, however, is upon 'parliamentarisation' at the EU level and upon initiatives to enhance parliamentary control and authorisation over the Commission.

'Parliamentary model'

One problem, seemingly endemic to discussions of 'parliamentarisation' in the EU, is the assumption that the meaning of the term is self-evident, and, hence, that the criteria by which the process of 'parliamentarisation' should be assessed are not specified. Moreover, there is a tendency to select individual characteristics of the 'parliamentary model' and to proclaim that because the EU displays individual elements of this model it is necessarily evolving towards a 'parliamentary democracy'. What we seek to argue here, however, is that a 'parliamentary model' is defined by the very *interconnectedness* of its defining elements. However, before developing this argument, a preliminary specification of what constitutes a 'parliamentary model' is required.

According to Loewenberg and Patterson (1979:56) 'the distinguishing characteristic of legislatures in parliamentary systems of government' is 'the overlap of executive and legislative leaders'. A basic feature of parliamentary systems, therefore, is that political executives are selected by the legislature (Lijphart 1991:3); and, normally, from within the ranks of parliamentary representatives (Lijphart 1984:68, 71). There is thus a fusion of executive and legislative roles. Moreover, '[i]n a parliamentary system, the chief executive ... and his or her cabinet are responsible to the legislature in the sense that they are dependent on the legislature's confidence and that they can be dismissed from office by a legislative vote of no confidence or censure' (Lijphart 1984:68). The logic of parliamentarism is that the executive should retain the confidence of the legislature because it derives both its legitimacy and its authority from the representative parliament. In this manner there is an intrinsic institutional interconnectedness between the executive and the legislature and the performance of the parliamentary functions of legitimation, linkage and decision making.

An important corollary of this interconnectedness is the general belief that 'Parliaments are supposed to control the operation of the executive' (Dehousse 1998:598). The exact degree of control is determined, in turn, by the formal and informal constraints that the legislature is able to place upon the executive and vice versa (see Blondel 1973:45-54). These constraints may stem from formal, constitutionally-prescribed powers, or from less formal practices, procedures and internal rules of a legislature itself.

One important facet of 'parliamentarism' is the 'legitimation function' (Packenham 1970). In essence the characteristic feature of this 'function' is an ability to foster

‘acquiescence in, or support for, the moral right to rule of the government among the population at large as well as political elites’ (Pakenham 1970). This is not simply a question of representation and linkage between electors and representatives but is also about the accountability of decision makers (executives) to parliamentary representatives. Thus as Dehousse (1998:609) notes:

The relationships between the legislature and the executive are the cornerstone of any parliamentary system: as parliaments are regarded as the main providers of legitimacy, executive authority must derive from, and be responsible to, the legislature.

Dehousse’s statement points to the ‘authorisation’ and ‘accountability’ dimensions of legitimation (see Beetham and Lord 1998:26), and it is these that will help to structure the following discussion. While these dimensions are inextricably linked with ‘representation’ – and the extent to which demoi, elections, parties, and parliaments in the EU secure ‘popular representation’ in decision making processes – it will be assumed here that parliaments provide mediated structures for such representation (see Lord and Beetham 2001:454). Moreover, in examining the authorisation and accountability dimensions the notion of ‘latent legitimation’ needs to be borne in mind (see Pakenham 1970, Norton 1990). What matters is that parliaments have the procedures, processes and opportunities that both connect them to executives and provide the capacity to constrain and so to authorise the outputs of the executive. Ultimately, in Pakenham’s (1970) words: ‘Whether the legislature made decisions which appeared to have a significant impact upon recommendations from the executive, or whether in fact it had a relatively minor impact upon such recommendations, this function was being performed’.

Dual Legitimation, Dual Deficit: The European Parliament and National Parliaments

[T]he European Union is based on a system of dual legitimacy: the first legitimacy is based on the democratic institutions of member states ... Gradually a second source of legitimacy has been building up, mainly based on the direct elections to the European Parliament. (Neunreither 1994:312)

The idea of a dual legitimacy, noted by Neunreither, is intuitively attractive but upon further consideration generates a series of paradoxes and conceptual tensions. These complications are outlined at length by Beetham and Lord (1998:84-93), but the essence of their analysis is that the EU has 'created mutually complicating relationships between democratic legitimation at the national and European levels' (1998:84). Attempts to link the two levels of legitimation is not a simple problem of aggregation – of adding EU representative democracy onto existing national processes of representation. In the first instance, there are 15 national political systems displaying different characteristics (for example, majoritarian versus consensus decision-rules; structures of legislative-executive relations; experiences and phasing of democratisation; and the weighting of territorial and functional representation). In the second instance, the development of European representative processes, without an underpinning elite or public commitment to EU-wide electoral competition, may question the legitimacy of outputs of that process despite their actual responsiveness to public needs.

Despite these difficulties the EU has consciously sought to develop dual legitimation in practice; not least through an increasing recognition that both national parliaments and the European parliament have roles to play in providing authorisation, representation and accountability in the Union. The importance of this concept was underlined in 2002 in the report of the EP's Constitutional Affairs Committee on relations between the EP and national parliaments:

The Union is based on a two-fold democratic mandate, as a Union of States and a Union of peoples. The European Parliament and the national parliaments, since they are both directly elected by the citizens, are equally representative of the peoples in the European Union. ... [Legitimacy rests] on two pillars, the European Parliament and the national parliaments. The European Parliament must be fully aware of this, taking care not to cultivate a simplistic attitude, increasingly seeing itself as the exclusive representative of the citizens and guarantor of democracy in relations with the other Union institutions. It must not concern itself exclusively with acquiring greater powers, ignoring recognition of the role of the national parliaments. (PE 304.302 2002:11)

The obverse of the notion of 'dual legitimacy', however, is the idea of a 'dual democratic deficit' in the EU (see Judge 1995). Here the problem of the EU's 'democratic deficit' is identified not solely as a failure by the European Parliament to exert adequate control over the Commission and the Council (the first deficit), but also a failure of national parliaments to exert sustained control over their own national executives (the second deficit). Leaving aside the contention that the EU suffers not simply from a dual but a *multiple* legitimacy crisis, one common solution to the perceived deficits is framed in terms of further 'parliamentarisation' of the EU.

An important part of such a process of parliamentarisation is believed to be the simultaneous strengthening of the respective control and oversight functions of the EP and of the national parliaments, as well as enhanced cooperation between parliaments at the EU and national levels. Thus, in the opinion of the EP's Constitutional Affairs Committee, what is required is, first, close 'collaboration, a common vision, and a joint commitment' between parliaments in the EU; and, second, a recognition that 'the quality of relations between the European Parliament and the national parliaments is of fundamental importance for the overall democratic nature of the Union' (PE 304.302 2002:12). This echoed the conclusion of an earlier Report by the Institutional Affairs Committee that 'the most productive way of tackling the democratic deficit lies in intensified cooperation between the national parliaments and the European Parliament, and for their relationship to be characterised by partnership rather than rivalry' (PE 221.698 1997:23).

Certainly, rivalry has underpinned the relationship between the EP and some national parliaments (see Judge 1995), but, equally, enhanced cooperation has resulted from three significant interparliamentary initiatives. The first is the Conference of European Affairs Committees (COSAC), the second is parliamentary assises and conventions, and the third is the facilitation by the EP of national parliamentary involvement in EU activities.

Conference of European Affairs Committees (COSAC)

COSAC is the French acronym for the Conference of European Affairs Committees. The Conference was established in 1989, following a French-led initiative to convene regular meetings of representatives of the respective European Affairs committees of national parliaments and representatives of the EP. At its first meeting in Paris in November 1989 COSAC agreed to increase the exchange of information among parliaments, and to meet

twice a year in the country holding the Presidency of the Council to discuss issues of common concern. In 1991 specific rules of procedure were adopted to regulate COSAC meetings, and these were amended at the meetings in Athens and Rome in 1994 and in Helsinki in 1999.

Writing before the Amsterdam Treaty, Martin Westlake (1994:60) maintained that COSAC's 'principal and enduring achievement has been to create and encourage sustained interparliamentary reflection on how best to overcome the "democratic deficit"'. However, the 'Protocol on the Role of National Parliaments' appended to the Amsterdam Treaty moved beyond this reflective and 'expressive' role and gave COSAC treaty status and empowered it to: 'make any contribution it deems appropriate for the attention of the EU institutions'; 'examine any legislative proposal or initiative in relation to the establishment of an area of freedom, security and justice which might have a direct bearing on the rights and freedoms of individuals'; 'address to the European Parliament, the Council and the Commission any contribution which it deems appropriate on the legislative activities of the Union, notably in relation to the application of the principle of subsidiarity, the area of freedom, security and justice as well as questions regarding fundamental rights' (Treaty of Amsterdam 1997).

Yet, despite its enhanced status, the actual impact of COSAC remains limited. Its most useful function is as 'a forum and an opportunity for those MPs most involved in EU issues in their national parliaments to meet and network' (HL 48 2001: memorandum by Richard Corbett MEP). Beyond this networking role some of COSAC's members see relatively few positive outcomes from its work. The overall assessment of COSAC, offered recently by two UK parliamentary committees, was of 'an opportunity missed' in terms of strengthening parliamentary scrutiny within the EU's system of governance (HL 48 2001:75) and of its potential being 'largely squandered' (HC 152-xxxiii 2002: para 149).

However, a more optimistic assessment of COSAC was provided by the EP's Constitutional Affairs Committee. Whilst noting that the full potential of COSAC had not yet been exploited, the Committee went on to identify a crucial role for COSAC in facilitating dialogue among parliaments on matters of CFSP, European Security and Defence policy, economic and monetary union, and constitutional affairs (PE 304.302 2002:7). Moreover the Constitutional Affairs Committee proposed an interparliamentary agreement between the EP and national parliaments in order to systematise cooperation

through reciprocal commitments on organising programmes of meetings and for the exchange of information and documents (PE 304.302 2002:7).

Yet no matter how often their meetings or systematic their cooperation, the European Affairs committees of national parliaments – comprised as they are of national parliamentarians with their own national priorities, national concerns, and prejudices, and with no common institutional perspective – will find it difficult to reach collective outputs that extend much beyond a lowest common denominator, or in fact to perform more than a general ‘talking shop’ role. The sheer pace, depth, breadth and significance of EU decision making limits the capacity of national parliamentarians to control, or to participate effectively in that process. Thus, while COSAC is undoubtedly of use in providing an educative and developmental forum for national parliamentarians to enhance their understanding of the EU and of its policies and functioning, its contribution to the ‘democratisation’ of the EU is inherently limited. Indeed, the same generic constraints face the various institutional experiments with *Assises*, and conventions, to which we now turn.

Assises and Conventions

In addition to the routinised meetings of COSAC, representatives from national parliaments and the EP have also met together in one parliamentary *Assises* (derived from a traditional French term) and, more recently, in two ‘conventions’. The *Assises* was held in Rome in November 1990 on the eve of the Maastricht IGC. The formal proposal for the *Assises* was contained in the Martin I Report (OJ C 96, 14 March 1990) which recommended that a conference of parliamentarians should be held before national governments convened Intergovernmental Conferences to discuss further EC treaty amendment. Indeed, Corbett (1998:296) concluded that the *Assises* was a ‘highly significant’ event as ‘[n]ever before has a major international negotiation been preceded by a conference of the very parliaments that would later have to approve the outcome of the negotiations’. Despite the successful outcome of the *Assises* for the EP, (marked by the adoption of a Declaration which endorsed all of the EP’s proposals for treaty reform), MEPs strongly resisted the regularisation of such *Assises* in the future. Equally, a French proposal at the IGC for the creation of a new ‘Congress’, which would bring together delegates from national parliaments and the EP to be consulted on major EU policy options, was opposed. In the end, this proposal was

negotiated out of contention and a more anodyne proposal was annexed to the Maastricht Treaty in Declaration (no 14).

Nonetheless, despite opposition within the EP to the institutionalisation of *Assises*, an *ad hoc* Convention was established in December 1999 to draft the Charter of Fundamental Rights. The Convention consisted of 16 MEPs, 30 representatives of national parliaments, 15 representatives of the Heads of State or Government and a representative of the President of the Commission. The EP's Constitutional Affairs Committee provided the basis of a mandate for collective action by the EP's representatives in its report (PE 232.648 2000:8). No such mandate was available, however, for the diverse members of national parliamentary delegations (HL 67 2000: paras 35-6). As one participating MEP noted: the national parliamentary 30 ha[d] no framework or steering within which they [could] function so [they were] pretty much all over the place' (HL 67 2000: Q106, Andrew Duff).

Overall, however, the UK's House of Lords EU Committee concluded that: 'The composition of the "Convention" is ... welcome: representation from national parliaments and the European Parliament provides the opportunity for a more direct input from elected representatives than is the norm at EU level' (HL 67 2000: para 152). Similarly, the EP acknowledged that the Convention was 'an original and extremely valuable experience' (PE 304.302 2002:16).

Pre-2004 IGC Convention on the Future of Europe

In the Declaration on the future of the Union annexed to the Treaty of Nice a process of 'wide-ranging discussions with all interested parties' was outlined. For its part, the EP maintained that such discussions should be conducted within 'a body such as the tried and tested Convention' (PE 304.302 2001:17). Thus, from expressing concern at any institutionalisation of an *assise* model a decade earlier, by 2002 the Convention model was now accepted as 'tried and tested'. Of particular importance in reconciling the EP to such a model was a recognition that the convening of a pre-IGC convention would mean:

moving towards assigning to the national parliaments – who hitherto have merely been called upon to say yes or no during ratification – and the European Parliament – which hitherto has not even been entitled to give its assent to revisions of the Treaties – *joint constituent power*, i.e. a constituent power shared with the national governments. This

would mark a new chapter in the role of parliaments in European integration. (PE 304.302 2002:16)

The motion for resolution produced by the Constitutional Affairs Committee in January 2002 underlined the significance of the Convention as it allowed ‘not only ... effective preparation of reform of the treaties but would also give European integration efforts greater legitimacy and would thus mark a new chapter in the role of parliaments in European integration by introducing a major institutional innovation’ (PE 304.302 2002:17). Nonetheless, despite these blandishments, a convention or *assises* model holds relatively few opportunities for a practical reduction of the democratic deficits in the daily operations of the EU.

National Parliaments

While the EP has always recognised that the modes of scrutiny of EU policies employed by national parliaments is entirely a matter of national responsibility (PE 221.698 1997:7), nonetheless, it has maintained that there were measures which could be adopted at an EU level which would facilitate national parliamentary scrutiny. Thus, for example, recent treaty amendments have encouraged the greater involvement of national parliaments in the activities of the EU. In this manner, for the first time, the Maastricht Treaty acknowledged the role of national parliaments and that the exchange of information between the EP and national parliaments was vital. To this end Declaration 13 proposed that national governments should ensure that their respective parliaments should ‘receive Commission proposals for legislation in good time for information or possible examination’. This commitment to the timely provision of Commission proposals was reiterated in Protocol 20 of the Amsterdam Treaty. The Protocol also stipulated that there should be a six-week period between a legislative proposal being made available and the date when it is placed on the Council agenda for decision.

Modification of the Protocol on the role of national Parliaments was urged by COSAC in the run-up to the Nice Treaty. At its meeting in Versailles in October 2000 COSAC recommended: the electronic transmission to each national parliament of all consultation documents and proposals for legislation from the European Commission; that the six-week time period should be extended to CFSP proposals; and that a minimum 15-day time period, or one week in urgent cases, should be observed between the final reading of a text by

COREPER and the Council decision (COSAC 2000). However, the 2000 IGC did not consider COSAC's proposals and the EP's Constitutional Affairs Committee was left to urge that the 2004 IGC should consider the implementation of the recommended procedures (PE 304.302 2002:14). Equally, the Committee noted the urgent need to examine how adequate information could be transmitted to national parliaments about comitology procedures and the activities of conciliation committees.

While a number of leading politicians, in the period before the Nice Summit, made speeches about the need to involve national parliaments more closely in the EU's decision making processes, no new text on their role was incorporated into the treaty itself.

Predictably, the role of national parliaments resurfaced in the deliberations of the European Convention in 2002-3. In its working group on national parliaments, in its discussion papers, and in its plenary deliberations the case for greater involvement of national parliaments in the EU's activities was explored. The precise means for enhancing this involvement ranged from suggestions to increase their political scrutiny of national governments, through treaty amendment to effect compulsory consultation of national parliaments, to various changes to the EU's institutional architecture. Amongst numerous suggestions in this latter respect were: a strengthened role for COSAC; establishment of a permanent congress (as envisaged by the Rome *Assises* of 1990); and the creation of a second chamber either alongside or within the European Parliament (CONV 67/02 2002).

In its final report the working group on the role of national Parliaments made 12 main recommendations under three broad headings. Generally, the group called for acknowledgement of the 'active involvement of national parliaments in the activities of the European Union' in 'specific wording' in the future Constitutional treaty. More particularly it recommended that the Council should meet in public when acting in a legislative capacity, and that records of Council proceedings should be sent within ten days to the EP and to national parliaments (CONV 352/02 2002:4-5).

Under the heading *national scrutiny systems* the working group recommended amending the Amsterdam Treaty Protocol to include specific provisions on the transmission, scope and the quality of information provided by EU institutions to national parliaments. It was also proposed that: no preliminary agreements should be acknowledged in Council in the six-week period stipulated in the Protocol, national parliamentary scrutiny reserves should be given clearer status within the Council's rules of procedure, and that a period of a week should be left between a legislative proposal being considered by COREPER and by the

Council. It was further recommended that there should be simultaneous transmission to national parliaments (as well as to the EP and the Council) of the Commission's annual policy strategy, annual legislative and work programmes, all legislative proposals, and consultative documents. In addition, the Court of Auditors should also transmit its annual report simultaneously to national parliaments, the EP and the Council.

Under the second heading of *subsidiarity* the Working Group recommended that national parliaments should be involved as early as possible in the EU's legislative process, and that their views should be conveyed through a 'process based mechanism', 'on the compliance of a legislative proposal with the principle of subsidiarity' (CONV 353/02 2002:12). The third heading of *multilateral networks* grouped together a series of related recommendations aimed at formalising the Convention 'method' in a future Constitutional Treaty, strengthening the role of COSAC as an 'interparliamentary mechanism', exploring the possibility of convening a forum (possibly in the form of a Congress of representatives from both national parliaments and the EP) for a broad ranging debate on the strategy and political agenda of the EU. This broad debate should be supplemented with 'ad hoc interparliamentary conferences on sectoral issues' (CONV 353/02 2002:14). Moreover, it was recommended that national parliamentarians alongside MEPs should participate in a 'common window of debates' in a designated 'European week'. This annual event should be scheduled to coincide with the presentation of the Commission's annual policy strategy.

The underpinning logic of the Working Group's recommendations was that the democratic legitimacy of the EU would thus be strengthened by increasing the involvement of national parliaments:

The issue was not one of competition between national parliaments on the one hand and the European Parliament on the other. Each had its distinct role but both shared the common objective of bringing the EU closer to citizens and thus contributing to enhancing the democratic legitimacy of the Union. (CONV 353/02 2002: 2)

A Second Parliamentary Chamber for Europe

If the Convention's working group was insistent in its emphasis upon enhanced networking and exchange of information between national parliaments and between national parliaments and the EP, it did not see the need for a 'new institution' to achieve this

objective. In this sense the working group implicitly excluded the creation of a second chamber of the European Parliament. Yet, a recurring proposal for the 'parliamentarisation' of the EU, through greater involvement of national parliaments in the EU decision making processes, has been the establishment of a new second chamber.

As early as 1953 the Assembly of the ECSC in its draft treaty for a European Political Community included provision for a bicameral legislature. Alongside a Chamber of Peoples representing 'the peoples united in the Community' would be a Senate to represent 'the people of each state' and with senators selected by national parliaments (HL 48 2001: para 9). These proposals fell with the failure of the draft treaties for the European Political and the European Defence Communities themselves. However, the early years of the 21st century witnessed a marked revival of interest in the notion of a bicameral European Parliament. In rapid succession leading politicians in France, Germany and the UK, alongside MEPs and individual EU commissioners advanced the case for a second chamber (for details see HL 48 2001:paras 13-16; HC 152-xxxiii 2002: paras 122-28). Certainly as the UK's House of Lords EU Select Committee concluded: 'At the root of all the proposals for a second chamber there seems to lie a perception that there is a problem with the democratic legitimacy of the EU and its institutions' (HL 48 2001:para 26).

Proponents of bicameralism believe that the existence of a nationally-based second chamber would better connect European citizens to EU institutions and decision making. These ideas were neatly summarised in a French Senate Report (HL 48 2001:Appendix 4) which maintained that a second chamber would 'anchor Europe better in each country'. It would 'allow the restoration of the link between the national parliaments and the European Institutions which was weakened with the election of the European parliament by direct elections'. In the context of an enlarging EU, a second chamber would also assuage the fears of smaller member states that their contributions to the EU decision making process was being reduced in the institutional changes attendant upon the Amsterdam and Nice treaties. The positive effect of establishing a second chamber 'where all the member states would be represented on an equal footing, by its very nature [would] make the achieving of consensus between the member states easier'. A third advantage identified in the French Senate Report would be a 'rebalancing of the EU institutions'. By this argument a second chamber would 'by its nature rebalance the institutional arrangements as a whole by placing, beside the European Parliament which is rather cut off from daily life, a counterbalance directly linked to national realities'. In addition, a second chamber would offset the centripetal tendencies

of EU institutions in Brussels with a centrifugal dynamic within a nationally focused assembly. In this sense the second chamber would be a living embodiment of the principle of subsidiarity.

In part, the emphasis upon subsidiarity is an attempt to distance the second chamber from becoming a 'third' legislative chamber. Most proponents do not envisage a legislative role for the second chamber. Indeed, in an attempt to defuse the criticisms that a new chamber would be 'one institution too far' (HL 48 2001:para 36) its primary role is often envisaged, therefore, in restricted terms of examining Commission proposals in order to determine whether they conform to the principles of subsidiarity and proportionality (see, for example, HL 48 2001: Appendix 4; CONV 67/02 2002:14). For opponents, however, the practical difficulties involved in integrating second chamber scrutiny into the existing legislative procedures – of ensuring agreement as to the precise boundaries of the levels of competencies in the EU, or of identifying a discrete role that was not already performed by the EP or by national parliaments – seemed to outweigh many of the other potential benefits a second chamber might contribute to EU governance (HL 48 2001:para 54; HC 152-xxxiii 2002: para 127).

In particular it is feared that the creation of a new chamber has the potential to generate more institutional conflict. If the decision making processes of the EU already had a 'Byzantine reputation' then Sir William Nicoll, for one, feared that a second chamber could be yet another 'roadblock' that the other EU institutions would have to 'spend time and effort to circumvent' (HL 48 2001:memorandum by Sir William Nicoll, para 31).

If the second chamber was to move beyond issues of subsidiarity and to become involved in CFSP or CJHA matters then this would be 'tantamount to declaring war on the EP, which has consistently demanded that it should not be excluded from these Pillars' (HL 48 2001: memorandum by Sir William Nicoll, para 34). Not surprisingly, in these circumstances, '[t]he European Parliament views a second chamber as a threat to its own position' (HL 48 2001: memorandum by Lord Norton of Louth). Overall, opponents found it difficult to see what 'added value' another chamber would contribute to the EU's decision making processes (HL 48 2001: Q181). More pointedly, Andrew Duff MEP could only speculate 'why it is that, just when a directly elected European Parliament is maturing steadily and its powers of codecision are settling down along come [proposals] to recreate alongside it, cuckoo style, its former, unelected predecessor' (HL 48 2001: memorandum by Andrew Duff, para 3).

Parliamentarisation of the EU: Executive-Legislative Roles

In outlining a 'parliamentary model' above the fusion of executive and legislative roles was noted. In the EU there is certainly a fusion of executive and legislative roles but there is no corresponding unambiguous differentiation of executive and legislative institutions. In other words there are no clear and determinate institutional boundaries in the EU. This is made clear in Michael Rocard's statement:

The originality of the European system lies in the fact that it does not reproduce a national democratic model articulated between executive and legislative, or still more between government and parliament. The Commission shares the governmental function with Council. The Council shares the legislative function with the Parliament (when it does not exercise it alone). (HL 48 2001: memorandum by Michel Rocard)

Thus, whereas it is relatively easy to identify discrete executive and legislative institutions within each member state, in the EU 'institutions are profoundly and inescapably interdependent' (Peterson and Shackleton 2002:9). The best way of understanding the EU's institutions (specifically the EP in the case of the present paper), therefore, is in terms of their interinstitutional interactions. They are part of complex, interwoven and overlapping institutional networks. There are no singular institutional structures only plural institutional forms. Thus, there is no single executive but rather a 'dual executive' of Commission and Council (see Hix 1999:54-55; Christiansen 2001:106). Similarly there is no single legislature but a series of interconnected 'legislative bodies' (see Hayes-Renshaw and Wallace 1997:4, 16). Manifestly the EP is a legislature but it also shares legislative functions with the Council and the Commission.

The significance of all of this for present purposes is that the initial conceptualisation of interinstitutional relations in the EU affects the proposals that are subsequently made for the further 'parliamentarisation' of the EU.

The Council and Bicameralism

In outlining schemes for a second parliamentary chamber in the EU (see above), the proposals for a transformation of the Council of Ministers into a second legislative 'Chamber of States' were briefly noted. The logic of such proposals was to make explicit the position of the Council as a legislative body, and so to formalise what for many already exists – a bicameral EU. Indeed, many academics, campaigning organisations and politicians alike have no hesitation in identifying a bicameral model at the EU-level. American academics Tsebelis and Money (1997), for example, treat the Council as an upper chamber in a bicameral legislature, and maintain that the conciliation procedure under codecision constitutes 'a conference committee of a bicameral parliament' (1997:203). Similarly, Hix believes that 'the EU has evolved into something that would be familiar to observers of two-chamber parliaments in other democratic political systems' (1999:98). The Federal Trust regards the EU legislative process as a 'simple structure' whereby the Commission makes proposals which are then 'approved by two chambers, the European Parliament and the Council of Ministers' (HL 48 2001: memorandum by the Federal Trust). French politician Michel Rocard reinforces this view in his statement that: 'European bicameralism already exists, with the Parliament and the Council' (HL 48 2001).

While these statements emphasise the 'familiarity', 'simplicity' and 'certainty' of bicameralism in the existing EU institutional configuration, there are countervailing arguments which challenge the bicameral nature of EU legislative politics. The first is that there is nothing 'familiar' about the institutional form of the Council. While the Council has a singular legal status, in practice it has met in up to 20 different formations of national ministers depending on subject area (though the Seville European Council in June 2002 agreed to reduce this number to nine 'Council configurations' [SN 200/02 2002:23]). Moreover, the 'variable geometry' of the EU complicates definitions of exactly what constitutes 'the Council' at any particular time. Second, the Council is also part of the executive, and so, unlike national second chambers, is responsible not only for scrutinising legislation but its members are also involved in the formulation and, as national governments, in the implementation of EU legislation. The need to distinguish between the Council in its legislative mode and in its political executive mode was acknowledged in 2001 in Jacques Poos' Report for the EP on the reform of the Council (PE 294.777 2001:7). This distinction was deemed necessary if transparency was to be brought to the legislative activities of the Council. While it is generally accepted that the processes of inter-governmental bargaining and negotiation are eased by confidentiality in the Council when it

acts in an executive capacity, there are widespread calls for greater transparency and more open access when it acts as a legislative body (See HL 48 2001:para 60, PE 294.777 2001:9, CONV 97/02 2002:8-9). Indeed, the force of such calls was acknowledged at the Seville European Council, where it was agreed that the debates of Council, when acting under codecision, would be open to the public during the initial stage of the procedure and during the final stage – of voting and explanations of voting (SN 200/02 2002:25).

Indeed, the need to separate the executive and legislative functions of the Council becomes even more essential in the arguments of those pressing for the Council to act formally as a second chamber (see, for example, HL 48 2001:Q104, PE 294.777 2001:18). Commissioner Michael Barnier made the point forcefully that: 'If the Council of Ministers is to [be] recognised as a second chamber, a chamber of states ... then you have ... to separate the work of the Council between its executive work and its legislative tasks' (HL 48 2001: Q129; see also HC 152-xxxiii 2002: para 105). In performing the latter tasks the Council would effectively then become exclusively a 'Council of Legislative Affairs'.

Yet exactly how, if at all, the two decision making functions could be separated constitutes a considerable stumbling bloc for the transformation of the Council into a second legislative chamber. Moreover, as presently constituted, if the Council is perceived as being 'at the core of the executive' (HL 48 2001: Q141) it cannot simultaneously perform the legislative oversight functions normally ascribed to legislatures. If '[p]arliaments are supposed to control the operation of the executive' (Dehousse 1998: 598), then clearly the Council, constituted as a second chamber, would have the task of controlling itself.

Parliamentarisation of the Commission

'Control through selection'

In parliamentary systems, as noted above, there is a basic interconnectedness between the legislative and executive branches of government. Indeed, one consistent proposal underpinning calls for the 'parliamentarisation' of the EU has been to provide a direct connection between EP elections and the choice of the Commission President. Much of the discussion about 'parliamentarisation' thus has revolved around the appointment procedure of the President and the Commission, and the extent to which the Maastricht and

Amsterdam treaties 'injected an element of parliamentary government' into the EU (Hix 1999:47) or 'made major steps towards a kind of parliamentary government' (Dehousse 1998:609). It is not our intention, however, to review the debate about authorisation through appointment here; other than to note that, without a seismic shift in the balance between national and EU party politics and without the linkage of the presidency appointment process to the partisan composition of the EP, 'parliamentarisation' in the sense of the electoral connection of the Presidency of the Commission to a parliamentary majority is likely to remain an aspiration rather than a practical reality (see Judge and Earnshaw 2003: 313).

Of more significance for present purposes is the idea that the responsibility of the Commission to the EP, extends beyond the simple 'control' of executive personnel – through formal powers of dismissal and appointment – to include the capacity to influence and legitimise the Commission's policy agenda. Of particular significance to the discussion here is the fact that the Maastricht Treaty synchronised the Commission's term of office with that of Parliament. After Maastricht the appointment of the President, and of the Commission as a whole, now coincided with that of a new parliament. The intention was that the coterminous periods of office of the EP and the Commission would facilitate not only parliamentary scrutiny and control and increase the Commission's accountability to Parliament, but would also encourage the 'prior authorisation' of the Commission's programme.

There are at least two major dimensions to the notion of 'prior authorisation'. The first stems from the logic of 'control through selection'. The reasoning is simple in that it was believed that the post-Maastricht selection process would increase not only the EP's influence over who was appointed as President (and subsequently as Commissioners and to which specific portfolios) but also that it would enhance Parliament's impact on the Commission's policy agenda by securing the 'prior authorisation' of the executive's programme. Paradoxically, the logic of maximised parliamentary control over the Commission's agenda rested in a further 'presidentialisation' of the Commission itself under the Amsterdam Treaty. Article 219 states that the 'Commission shall work under the political guidance of its President'. In effect there are both positive and negative dimensions to such 'political guidance'. Perhaps, not surprisingly given the events surrounding the resignation of the Santer Commission, the negative dimension of individual resignations and the individual responsibility of Commissioners preoccupied the incoming Commission

President in 1999 (see Judge and Earnshaw 2002). However, the positive dimension of presidential 'political guidance' was incorporated in a new right conferred by the Amsterdam Treaty on the President to agree or disagree (by 'common accord' [Article 214]) on member states' nominees for Commission posts. Furthermore, Declaration 32 to the Treaty also recorded that 'the President of the Commission must enjoy broad discretion in the allocation of tasks within the College, as well as in any reshuffling of those tasks during a Commission's term of office'. From the EP's perspective, such enhanced presidential authority contributed to a further incremental increase of parliamentary influence over the Commission. Thus, Spence (2000:5-6), for example, identified the EP's ability to vote on the President as 'a way of influencing the Commission's agenda, as parliamentarians could make their ratification of a President conditional on his/her amenability to their programme'. In practice, however, Prodi's personal impact on the choice of Commissioners and the allocation of portfolios continued to be closely delimited by the interests of national governments (see *European Voice* 8-14 July 1999; Spence 2000:7-8).

'Authorisation of the Commission's Programme'

A second dimension of 'prior authorisation' is the acceptance of the Commission's policy programme by a parliamentary majority. In the case of the EU exactly what constitutes 'authorisation' and what is being 'authorised' remains open to wide interpretation. On the one side, the Commission's programme is not the exclusive construct of supranational endeavour, but also reflects the priorities of constituent member governments and national organised interests (Peterson 1999:59). On the other, Parliament's assessment of the programme is conditioned by national party considerations and political group perspectives. Despite these ambiguities, Romano Prodi as President-designate, agreed to present to Parliament the Commission's 'policy perspectives for the next five years' (Prodi, Speech to the EP 14 September 1999). The five year programme was designed to supplement the established practice of the presentation of the annual work programmes by the Commission. The first annual programme had been submitted in 1988, and the system was gradually revised over the years in an attempt to increase its contribution to the planning and monitoring of EU legislation. Even so, the annual programme provided little indication of the priorities of the Commission and tended to be introduced by anodyne statements of good

intent. In return, parliamentary deliberation of the programme was characteristically perfunctory and 'mechanical' (for details see Corbett et al 2000:212).

When the EP eventually considered the Commission's policy priorities, as outlined in the document *Strategic Objectives 2000-5 Shaping the New Europe* (European Commission 2000), at its plenary of 15 February 2000, Mr Prodi was at pains to emphasise that 'a five year programme is an extremely important undertaking'. Its purpose was to provide the Commission's 'major guidelines for action over the next five years' (EP Debates 15 February 2000). In fact Mr Prodi was willing to liken the programme to 'a political manifesto' (EP Debates 15 February 2000).

From Parliament's side Enrique Barón Crespo, as leader of the PSE, particularly welcomed 'the first ever debate on the Commission's programme for government – the word President Prodi is so fond of; as I am – for the whole legislature' (EP Debates 15 February 2000). In this respect he acknowledged that the five year programme was 'breaking new ground'. However, he also recognised that the time-lapse of eleven months from Prodi's nomination to the presentation of the programme infringed the notion of 'prior authorisation'. In which case he believed that, in future, 'it would be appropriate for the investiture of the next Commission to coincide with the presentation of a legislative programme'.

However, underpinning the congratulatory statements to the Commission President for honouring his commitment to present a five-year programme to Parliament, there was an undercurrent of concern about the substantive merits of the programme itself. MEPs from the smaller groups were particularly critical, with, for example, Francis Wurtz of the GUE/NGL expressing concern at the 'weakness of the analysis and the obstacles to the necessary changes have resulted in a project whose scope is severely limited by an overabundance of generalisations, a rather indecisive approach and therefore a lack of impetus' (EP Debates 15 February 2000, see also Gianfranco Dell'Alba [TDI]).

Nonetheless, Prodi 'perceived a broad consensus on the basic lines of our programme' within Parliament (EP Debates 15 February 2000) and from this base sought to effect a more ambitious scheme of policy management in the future. A first stage, in July 2000, was the incorporation of the five-year programme into a new Framework Agreement between the EP and the Commission (European Parliament 2000). The two institutions agreed that 'an incoming Commission shall present, as soon as possible, its political programme, containing all its proposed guidelines for its term of office, and shall establish a dialogue

with the European Parliament' (for details of the Framework see Judge and Earnshaw 2002). The Commission also agreed to six monthly reports on the implementation of the work programme and regular updates of any changed priorities occasioned by changing political circumstances.

A second stage came in January 2001 when the Commission presented its traditional work programme for the coming year (COM[2001]28 Final) but stressed that its 'priority objectives' would now be pursued 'bearing in mind the guidelines laid down by the Commission when it came into office' (COM[2001]28:4). More radically, in February 2001, the Commission also adopted its first *Annual Policy Strategy*. This document set out the political priorities which required 'special attention in 2002'. It also defined actions stemming from those priorities and sought to allocate resources accordingly (COM[2001]620 final:3). In turn, the introduction of the *Strategy* had knock-on effects for the presentation of the Commission's work programme to the EP. One immediate result was that the 2002 programme was presented in early December 2001, rather than, as in the past, at the beginning of the calendar year itself. A second consequence was that the work programme sought to assess progress in the current year, to identify the political and economic context for the forthcoming year, to identify the political priorities in light of the *Annual Policy Strategy*, and to then to translate those priorities into practice in 2002 (COM[2001]620 final:3). In this sense it was identified as a 'genuine political programme' (Prodi EP Debates 11 December 2001).

For all the talk of 'a more structured dialogue' there still remained manifest shortcomings in the eyes of MEPs. First, the 2002 work programme was unavailable for preparatory discussions in EP group meetings the week before it was presented to Parliament (Poettering EP Debates 11 December 2001). Second, the leader of the EPP-DE wondered why – if the programme was that of a self-styled 'government' – the whole College of Commissioners was not present to offer its support in the EP? Third, Barón Crespo voiced doubts that what had been presented by the Commission was a political programme. In his eyes it was a 'working programme' but the PSE also wanted a 'legislative programme' (EP Debates 11 December 2001). The fact that the legislative programme was only forwarded to the EP the night before the debate spoke volumes of the ability of the EP to 'prior authorise' the details of the Commission's programme. The problems of processing, and so influencing, the working programme was highlighted by Pat Cox (then ELDR leader) in his plea: 'The Commission already has a wonderful process of

consultation in place with the social partners. Share this process with us [the EP] as well' (EP Debates 11 December 2001). Ultimately, Paul Lannoye (Greens, Belgium) concluded that, in the circumstances surrounding the 2002 programme, 'I think that Parliament is *de facto* deprived of its powers of control and influence' (EP Debates 11 December 2001).

Concern with the presentation, timing and processing of the legislative and work programme led Parliament's Constitutional Affairs Committee to recommend a revised timetable for its preparation and for its consideration by the EP (PE 304.309 2002). The Committee's starting point was an acknowledgement that the annual legislative programme was 'an invaluable tool for the functioning of the European institutions' but that 'whole legislative cycle is opaque and quite incomprehensible not only to the European Parliament, but also to the citizens and the national parliaments' (PE 304.309 2002:11). By changing the procedures surrounding the preparation of the legislative and work programme the Committee sought to increase interinstitutional cooperation between the Commission and the EP and so increase the influence of the latter in the legislative cycle and in the identification of the priorities of the former institution.

2003 Legislative and Work Programme

In January 2002 the EP's Conference of Presidents approved an agreed timetable with the Commission whereby the EP would cooperate in the preparation of the Commission's 2003 legislative and work programme (PE 304.309 2002:13-14). In following this timetable, on 27 February, Romano Prodi outlined to the EP the Commission's priorities contained in its Annual Policy Strategy, and on 20 March a debate was held on this strategy. In this debate Vice-President of the Commission, Loyola de Palacio noted 'that this year, for the first time, the three main institutions will conduct an in-depth dialogue on policy priorities and on the legislative and working programme for the coming year' (EP Debates 20 March 2002).

Between April and July, members of the Commission discussed with the relevant EP committees the Commission's priorities in their areas of responsibility. In July, the Conference of Committee chairmen, jointly with Mrs de Palacio, carried out an assessment of the 2002 programme. Subsequently, in September, the Conference of Committee chairmen along with Mrs de Palacio, drew up an inventory of the various legislative proposals that the Commission intended to introduce in its legislative and work programme for 2003. The result of these interinstitutional deliberations was in President Prodi's

opinion: 'Better coordination between the institutions, enhanced planning of legislative work and more information for the public [as] tangible proof of our determination to make the EU institutions more efficient and to give them a sounder democratic basis' (EP Debates 20 November 2002). This positive opinion was reflected in Enrique Barón Crespo's (PSE) conclusion: 'we are getting increasingly close to what we asked for at the beginning of the legislature, that is, an annual political programme presented to Parliament with the participation of the Council ... in line with visibility, transparency and democratic control' (EP Debates 20 November 2002). On behalf of the EPP-DE, Françoise Grossetête concurred that, 'For the first time, Parliament, the Council and the Commission have engaged in a constructive dialogue to establish a legislative programme' (EP Debates 20 November 2002).

While there was still considerable room for improvement – including greater preparation for and more structuring of dialogue, more detail and specific guidelines for each legislative proposal, and the application of impact assessments to legislative initiatives (see Grossetête, Clegg EP Debates 20 November 2002) – nonetheless, there was general agreement that the new process was a positive enhancement of the parliamentary 'authorisation' of the Commission's programme. In the words of Joseph Daul (EPP-DE):

Efficient legislative programming effectively means two things. First of all, transparency in terms of knowledge and citizens' access to the legislative work that the European Union intends to undertake in the year ahead. Secondly, greater efficiency in carrying out legislative work, not forgetting that, thanks to better programming, Parliament, the Council and the Commission can inform the national parliaments and the citizens on legislative work and take full responsibility for it. (EP Debates 20 November 2002)

The Commission's White Paper on European Governance

While the Commission was willing to enter into a dialogue with the EP about programming it remained insistent that it alone had the 'exclusive right of initiative under the Treaty' (de Palacio EP Debates 20 March 2002). If it was willing to urge the EP to continue in its 'political efforts to promote the institution of Parliament as the supreme organ of democratic debate and codecision' (de Palacio EP Debates 20 March 2002), it was a little more circumspect in supporting the wider cause of 'parliamentarisation'.

This ambivalence was reflected in the position adopted earlier in the Commission's White Paper on EU Governance (COM[2001]428). The starting point of the White Paper was the Commission's commitment to the 'revitalisation the Community method' (COM[2001]428 final:29). The Commission was anxious to see a return to the original Treaty prescribed tasks for each institution (see chapter 2), and a return to a position where 'everyone should concentrate on their core tasks'. In effect it was a plea to return to a simpler era where the 'Commission initiates and executes policy' and the 'Council and the European Parliament decide on legislation and budgets' (COM[2001]428:29). In this vision the independence of the Commission would be asserted (COM[2001]428:8). But to achieve this in practice would mean 'disentangling the institutions from one another and guaranteeing the Commission the pre-eminent role as co-ordinator of EU policy' (Wincott 2001:902). In this sense the White Paper clearly emphasised the Commission's distinct executive status and the 'Community method' over and above any notions of the further parliamentarisation of the EU. Indeed, there was no mention of an elected Commission President responsible to the EP; and further enhancement of the role of the EP was restricted to: first, 'control on the execution of EU policies and the implementation of the budget', second, to a review of the areas covered by codecision, and, third, to greater activity in jointly organising, with national parliaments, public debate on the future of Europe and upon EU policies (COM[2001]428:29-30).

When talking of enhancing democracy the White Paper did not envisage a further parliamentarisation of the EU's decision making process. Instead, other channels of functional and regional representation were to be nurtured alongside parliamentary representation (2001:13-19). In seeking a 'reinforced culture of consultation and dialogue' the Commission seemed to conceive of the EP's role primarily in terms of amplifying the concerns of organised associations through its system of 'public hearings'. What was absent was direct acknowledgement of the EP's importance as the direct representation of the citizens of Europe.

The emphasis upon consultation 'upstream' in the decision making process was linked in turn to a concern with effective implementation 'downstream'. A technocratic ethos pervaded the Commission's conception of the EU policy process, with the need for 'better and faster regulation' (COM[2001]428:20) often appearing to outweigh the need for democratic representation and accountability. In this sense, the emphasis was placed upon 'substantive legitimacy' or 'output legitimacy' (see chapter 1; Lord and Beetham 2001:444).

Not surprisingly, however, this technocratic vision was challenged by the EP in the Report of the Constitutional Affairs Committee on the White Paper (PE 304.289 2001). In its motion for resolution the Committee advised caution in the introduction of 'elements of participatory democracy' and counselled that the 'recognised principles of and structural elements of representative democracy' (PE 304.289 2001:7) should not be infringed. In 'reiterating its confidence in the Community method' and advocating the maintenance of 'the institutional balance' the EP assumed that the principles of parliamentarism would be paramount. Thus, in the EP's conception of 'method' and 'balance', democratic legitimacy was provided jointly by the EP and the parliaments of member states. The parliamentary vision of legitimacy 'presupposes that the political will underpinning decisions is arrived at through parliamentary deliberation; this is a substantive and not merely a formal requirement' (PE 304.289 2001:9). In which case:

consultation of interested parties with the aim of improving draft legislation can only ever supplement and can never replace the procedures and decisions of legislative bodies which possess democratic legitimacy; only the Council and Parliament, as co-legislators, can take responsible decisions in the context of legislative procedures ... (PE 304.289 2001:10)

In its view that participation and consultation based upon 'organised civil society' would 'inevitably' be 'sectoral' – and so could not 'be regarded as having its own democratic legitimacy, given that representatives are not elected by the people and therefore cannot be voted out by the people' (PE 304.289 2001:10) – the EP reflected one strand of academic opinion (see Judge 1999:121-48; 176-7; Lord and Beetham 2001:453-8).

Equally, the EP was anxious that the principles of 'parliamentarisation' should not be undermined by increasing delegation of decision making powers to regulatory agencies (PE 304.289 2001:12). Nor should the creation of expert and scientific groups detract from the accountability and transparency requirements of representative democracy. Similarly, the EP was wary of the Commission's suggestion that there should be greater use of 'framework directives' and primary legislation where the executive was empowered to fill in the technical details 'via implementing "secondary" rules' (Com[2001]428:20). The use of delegated legislation would only be supported by the EP if 'adequate mechanisms of

democratic control' were put in place, in particular time-limited, call-back mechanisms (PE 304.289 2001:14).

Generally, the Commission was warned against taking reformist initiatives in the legislative process without full, prior consultation of the EP. More specifically, the EP endorsed the principle that:

the 'parliamentarisation' of the Union's decision-making system presupposes increased transparency of the work of the Council and that the involvement of both the European and national parliaments constitutes the basis for a European system with democratic legitimacy and that only regional, national and European institutions which possess democratic legitimacy can take accountable legislative decisions. (PE 304.289 2001:9)

In December 2002, after an extensive consultation phase, the Commission produced a review of the 'lessons to be drawn from reactions' to its original White Paper on Governance. The Commission concluded that the public response 'largely supported the White Paper's definition of the principles underlying European Governance' (COM[2002]705:4). Significantly, however, the consultation process highlighted the 'disregard' of 'issues of democratic legitimacy and democratic deficit' (COM[2002]705:4) in the White Paper. Indeed, one of the 'main messages' arising from the consultation exercise was that:

Part of the public response argues that the key issue is democratic legitimacy, which presupposes decisions arrived at through representative deliberation. It is generally recognised that the White Paper's call for inclusion of more players in the policy process, *while necessary*, does not in itself lead to increase democratic legitimacy of policies or institutions. (COM[2002]705:4, original emphasis)

Conclusion

Parliamentarisation is not only a dual process in the EU, it is also a two-way street. If 'parallelism' is promoted – of strengthening the scrutiny and monitoring powers of national parliaments and the EP simultaneously and in parallel – then there is a trade-off between the mechanisms and scheduling of scrutiny/informatory procedures and the efficiency of

decision making at the EU level. Proposals to systematise cooperation through reciprocal commitments to organise programmes of meetings and for the exchange of information and documents (through COSAC), or to allow for the examination of Commission proposals for their conformity to the principles of subsidiarity and proportionality (through a 'second chamber' composed of representatives of national parliaments), or for national parliaments to express opinions on the Commission's legislative/work programme, all entail efficiency costs. 'Parliamentarisation' might enhance participation by elected representatives (and so enhance 'democratic legitimation') but simultaneously incur efficiency costs (and so detract from 'output legitimation').

The 'two-way' interactive process of 'parliamentarisation' is also evident in the response to the demands for the 'parliamentarisation' of the Commission. Significantly the Commission has responded by asserting the principles of 'openness, participation, accountability, effectiveness and coherence' (COM[2002]705:3) in terms of 'output legitimation' rather than parliamentary legitimation. In the institutional logic of the Commission 'parliamentarisation' and the principles of democratic legitimacy have something of an 'add-on' quality (COM[2002]705:4). Moreover, proposals for the 'parliamentarisation' of the appointment and dismissal processes caused the Commission to reexamine its relations with the EP. Thus, for example, in July 2000, Michael Barnier, the Commissioner responsible for the IGC, while sharing the EP's vision of a strong Commission presidency responsible to a strong Parliament, raised the prospect of institutional changes that would redirect the flow of accountabilities between executive and legislature. In this respect, Barnier (2000:10) argued that '[t]o balance the European Parliament's right to censure the Commission, provision should be made for the right to dissolve the assembly, either by the President of the Commission following approval by the European Council, or by the Council on the basis of a proposal by the President of the Commission'. The idea was taken up subsequently by Spanish prime minister José Maria Aznar, who proposed that the European Council should have the right to dissolve Parliament, on the basis of a proposal from the Commission (*Agence Europe*, 22 May 2002).

These proposals were a direct echo of Lijphart's (1984:72) observation that '[a] logical corollary of the legislature's power to dismiss the cabinet in a parliamentary system is the prime minister's right to dissolve parliament and call new elections'. In this regard, Barnier's thoughts tapped into an historic vein of parliamentarism and served as a reminder

to the EP and commentators alike that the relationship between the executive and the legislature in a parliamentary system is interconnected and reciprocal. The assertion of parliamentary power precipitated, therefore, a counter-response in calls for a reassertion of executive power in the EU. This reassertion in itself highlighted the competing frames within which institutional development of the EU can be, and is, located. As Beate Kohler-Koch (1999:521) has argued: 'The Commission's framing of institutional choice is ambivalent' and shifts when a 'particular institutional model comes into conflict with organizational interest'. Hence, while historically the Commission sought the support of the EP to strengthen its position in relation to the Council, 'now with a more assertive EP the Commission shies away from entangling alliances in order to avoid overly rigid parliamentary control' (Kohler-Koch 1999:521-2). Perhaps it is instructive to conclude, therefore, with the observation that at the heart of the EU, within the Commission as part of a 'dual executive', not everyone is convinced that the future is unambiguously parliamentary!

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