Into the New Millennium: The Evolution of the European Parliament from Consultative Assembly to Co-legislator

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Abstract

This article explores the evolution of the EP's legislative function both before and after the enforcement of the Amsterdam Treaty. It provides preliminary conclusions how the new Treaty provisions have been applied in the practical political process. Closely linked is the question whether the growing competencies of the EP have had an effect on the support of the European citizenry.

The EP has come a long way from a purely consultative assembly to co-legislator with the Council and managed to obtain recognition as a body of democratic control. The co-operation and the co-decision procedure have led to internal reorganisation within the parliamentary body, strengthening its capacity as a negotiating partner with Council. The EP has used its power of veto, which was introduced by the Treaty of Maastricht, extremly sparingly thus avoiding, by all means, a blockade of the legislative process. The co-operation procedure has triggered new forms of institutional co-operation such as the trialogue. By involving only a selected number of members of the Community institutions, this forum has become an efficient platform to prepare conciliation meetings.

The Treaty of Amsterdam has extended the powers of the EP in the legislative field by streamlining and extending the co-decision procedure to fields such as Transport policy and actions in the enviromental sector. It aimed to accelerate the taking of decisions by making it possible to adopt a legal act already during the first reading. The initial experiences with this new procedure have shown that this innovative provision is highly suitable for legal acts of a technical nature. The Amsterdam Treaty has, furthermore, extended the role of the EP in the nomination procedure for the Commission President.

The EP's enlarged institutional role does not necessarily go hand in hand with growing support of the EU's citizens. Barely 50 % of the European electorate have turned out at the polls during the last EP elections. The Eurobarometer surveys also reflect that less than half feel their interests are protected by the EP.

The article closes by focusing on some of the challenges the EP faces at beginning of this Millennium: (possibly) expanding its powers and at the same time enhancing its links with the European citizens.

Introduction

The European Parliament (EP) has been hailed as the winner of the Intergovernmental Conference (IGC) which was concluded in Amsterdam in June 1997. The Amsterdam Treaty widens the scope of parliamentary activity considerably. The Treaty has not only extended the scope of application of both the assent[1] and the co-decision procedures, but the latter has been streamlined and puts the EP on an equal footing with the Council. Another important innovation, which has been very topical, is the fact that the EP now plays a role in the nomination procedure of the Commission President. However, this strengthening of the EP's legislative powers and powers of appointment has not led to greater recognition of the institution on the part of the citizens of Europe; on the contrary – the turnout for the European Parliament elections hit an all-time low in June 1999.

With these points in mind, this article will explore the evolution of the EP's legislative function both before and after the coming into force of the Amsterdam Treaty (1999). It will provide preliminary conclusions on how the new Treaty provisions have been applied in the practical political process. Closely linked is the question of whether the growing competences of the EP have had an effect on the popular support for this Community institution. The article will close with some concluding remarks.

From consultative body to co-legislator

Consultation and Cooperation

The fact that the EP is now commonly seen as co-legislator with the Council is a relatively new development. For more than three decades it did not enjoy any effective rights of participation in the legislative process. It started out as an assembly possessing only two major powers: the competence to pass a motion of censure against the High Authority[2] and the right to be consulted by the Council on selected legislative proposals. The opinions, given in this classical *consultation procedure*, were non-binding.

The original 142 members of the EP were not directly elected, but delegated by the national parliaments of the Member States. Although the possibility of direct elections was provided for in the Treaty of Rome (1957), due to reluctance on the part of the Member States it took almost 20 years for the Council to give its consent to this step. The first elections were then finally

held in June 1979, when 410 members of the EP (MEPs) were elected from nine Member States according to the national election procedures of their respective countries.

The Single European Act (1987) represented a major step forward for the parliamentary body. It marked the beginning of a new "triangular relationship"[3] between the Council, the Commission and the EP by introducing the *cooperation procedure*. It would go beyond the scope of this article to give a detailed account of the set-up and working of the procedure, but it suffices to say that although the EP did not possess a right of veto, it could, given that the preconditions were fulfilled, exploit its "agenda setting powers".[4] Just as in the classical consultation procedure, which was the predominant procedure up to this point, the EP was consulted by the Council on the basis of a Commission proposal. The Council would subsequently adopt its "common position", by possibly incorporating the amendments of the EP. The amended proposal was referred back to the EP for a second reading. The EP was then forced to walk the tightrope as it had to muster an absolute majority of its members to reject the common position.

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The EP, which had been demanding an extension of its legislative powers for more than three decades, could hardly afford to jeopardise its newly acquired powers. In order to be able to obtain the necessary majorities – at least 314 members out of 626 had to support the measure – the EP had to ensure that:

- the cooperation between the two major parties in the EP, the European Socialists and the European People's Party was intensified;
- the internal working procedures were strengthened by assigning most proposals not only to one committee but also to other committees of relevance.

The main challenge for the EP lay in convincing the Commission to incorporate its amendments into its proposals. Provided that the Commission accepted its changes, then the Council could only reject them by unanimity, whereas a qualified majority was (and is) necessary for its acceptance.

The cooperation procedure, which improved inter-institutional dialogue significantly, constituted the first chance for the EP to "flex its legislative muscles". The workings of the procedure showed that the Community institutions were able to come to a compromise rather quickly: the procedure lasted 734 days on average. The relevant data reflects that the Commission was more prepared than the Council to include EP amendments both in the first and second reading.[5] At the beginning of the new millennium, the cooperation procedure, which was initially principally linked to the completion of the internal market, is, however, loosing importance. After the Amsterdam Treaty, it has only been retained for matters falling within the sphere of Economic and Monetary Union (EMU).

The EP as a legislative actor after Maastricht

Building on the positive experiences gained during the cooperation procedure, the EP's legislative competences were extended by the Treaty on European Union (TEU) – the so-called Maastricht Treaty (1993). Through the introduction of the *co-decision procedure* the MEPs were, for the first time, granted the power of veto in several policy areas.[6]

The innovative element of the procedure lies in the option to convene a conciliation committee in cases where the Council and Parliament are unable to reach a compromise. The committee is composed of members of the Council or their representatives and an equal number of representatives from the European Parliament, who have to reach an agreement on a compromise text within the very short time-span of six weeks. The Commission is also represented in the conciliation committee where its role is circumscribed as it can no longer withdraw its proposals and prevent an agreement between EP and Council.

Within the committee itself, delegations are, in principle, composed of the following members:

- 15 members of the Council, each accompanied by two or three assistants, the President of the Council, assisted by the Secretary-General and three Council officials;
- 15 MEPs, joined by the President of the EP – if he/she is leading the delegation him/herself – supported by the Secretary-General and 14 officials sent by the private offices of the President and the Secretary-General and the Secretariat, as well as one or two officials (maximum 15) for each political group represented on the delegation;
- one or two members of the Commission, supported by their private office, the Secretary-General and three officials.[7]

It is clear that according to this set-up, where, in principle, more than 130 representatives of the three Community institutions can be present, negotiations on highly technical and complex draft legislation are not feasible.

For practical purposes a distinct pattern has emerged for the preparation of the conciliation committee meetings. Following delegation meetings of the Council and EP, selected members of the Community institutions – the chairman and rapporteur of the responsible parliamentary committee, the COREPER chairman and the responsible Director-General or Deputy Director-General of the Commission – come together for informal negotiations known as trialogue sessions. These meetings

– which have developed out of the need of the Community institutions to reconcile their positions before formal conciliation procedures – have proven to be very efficient forums for institutional dialogue. The first formal trialogue dates back to the negotiations on "Socrates" and "Youth for Europe" under the German Presidency. They did not become practice, however, until the Spanish Presidency in the second half of 1995. Notable instances of such meetings occurred in May-June 1998 as regards legislation on the EU's Fifth Environmental Action Programme for example, where progress was "such that when the conciliation meetings formally met they had little to do other than to rubber-stamp what had been agreed in the trialogues." [8]

The pre-meetings do not follow a pre-set pattern, but depend to a large extent on the influence of the respective Council chairman. Each Presidency brings its own style to relations with the EP. Not all Council delegations have held the Presidency since the introduction of the co-decision procedure and in some cases they therefore have to go through a period of adjustment, after which about 10 conciliations per Presidency[9] have to be faced. The Presidency's key task is to comprehend Parliament's position, transmit it to the Council and act as a mediator in the quest to find compromises which are acceptable to both institutions.

The EP was not put on a completely equal footing with the Council. The Council still had the possibility, if conciliation failed, to confirm its common position by qualified majority. The EP was then left with a "take it or leave it option": either it rejected the text by an absolute majority of its members or did not act within six weeks. This put the EP into the uncomfortable position of being seen, in the latter instance, as responsible for the failure of a legislative act as it was forced to put in its veto in the final stage of the procedure.

Consequently, the EP used its power of veto extremely sparingly. A total of 275 draft legislative acts were submitted to the EP under the co-decision procedure between the 1 November 1993 and March 1999, of which 177 were adopted. Two cases failed as no agreement could be reached by the conciliation committee. Only in one case – the legal protection of biotechnological inventions – did the EP plenary reject a compromise agreement which had been laboriously prepared over several conciliation meetings. This veto, which was supported by the majority of the MEPs, was based on reservations in connection with the possibilities allowed by the text as regards of the patenting the human genome. As the Council was also split on this matter, it did not make use of the possibility of reaffirming its common position.

The potential and the dynamics of the co-decision procedure are reflected in the evolving relationship between the EP and the Council. The amount both of formal and informal contacts have increased significantly since the introduction of the procedure, bringing representatives of both institutions to the negotiating table in search of compromise and consensus.

The assumption that the involvement of the EP might slow down the legislative process has, so far, not been realised. The co-decision procedures that were concluded between November 1993 and 30 June 1998 lasted 710 days on average. Procedures where no conciliation was necessary were on average concluded after only 634 days, whereas co-decision with conciliation was completed after 815 days.[10]

The Treaty of Maastricht has, by introducing the co-decision procedure, presented both the Council and the EP, as well as to a certain extent the Commission, with a major challenge. It has enhanced cooperation between the institutions and given rise to new patterns of negotiations, preparing the ground for the interaction of the co-legislators after the coming into force of the Treaty of Amsterdam (1999).

EP and Council on an even footing after Amsterdam

As mentioned above, the Treaty of Amsterdam strengthens the EP's role considerably, especially as regards its involvement in the legislative process. The co-decision procedure has been extended from 15 to 38 Treaty articles. It now applies to new areas within the fields of transport, environment, energy, development cooperation and certain aspects of social affairs. For certain areas[11] within the third pillar, it is stipulated that the co-decision procedure should come into effect five years after the entry into force of the Treaty. The EP is still, for the most part, excluded from policy fields such as the Common Agricultural Policy (CAP). The main legal basis for measures in the sector of the CAP will also only provide for parliamentary consultation in the foreseeable future. The provision on public health has been modified, however, to cover veterinary and phytosanitary measures, which consequently fall under the co-decision procedure.

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Two other important fields where the EP is only consulted are fiscal harmonisation and the conclusion of international agreements (except for association agreements). [12] There are also new cases of "non-involvement" of the EP, the consultation procedure having been expanded by nine Treaty provisions. The

EP is, for example, only asked to give an opinion on recommendations on employment policy and on agreements concluded by the European social partners.[13] In its opinion of 26 January 2000 on the next IGC on institutional reform, the Commission proposes an extension of the scope of co-decision to common commercial policy rules such as basic anti-dumping rules and to legislative aspects of the CAP and the common fisheries policy.[14] It remains to be seen whether Member States can agree on an enhanced legislative role of the EP in these fields, which currently fall under the intergovernmental domain.

The streamlining of the co-decision procedure

A significant new element within the Amsterdam Treaty is the streamlining of the co-decision procedure. Most importantly, the possibility now exists to adopt a legislative act during the first reading, if either the EP proposes no amendments to the Commission proposal or if the Council agrees to the changes put forward by the EP. The significance of this new step becomes apparent when one considers the functioning of the co-decision procedure after Maastricht: of the total number of procedures finalised between November 1993 and June 1999, over 55% could have been concluded after the first reading, as the EP did not put forward any amendments to the Commission's proposal or as the Council approved all parliamentary changes.[15] This seems to suggest that the new procedure might lead to an acceleration and simplification of the legislative process. The practice of the procedure so far has shown however that in this first stage of the decision-making process, dossiers have not been passed except when highly technical matters were at stake. From May 1999 until the end of 1999, four legal acts were concluded at the first reading, a phase which now starts simultaneously in the Council and the EP. These acts covered the approximation and adaptation of laws on technical issues within the fields of: measurement;[16] the Trans-European Networks (TENs);[17] animal health protection;[18] and the CAP[19].

There was one notable exception to the "rule" that only technical issues can be resolved at the first reading stage: the establishment of a European fraud prevention office (OLAF) in May 1999. It was of high political significance after the European Commission resigned in March 1999 due to allegations of fraud, mis-management and nepotism. This legal act was concluded under extreme time pressure to convey the impression that the Community institutions were undertaking all possible measures within their means to combat fraud and corruption. The Commission put forward its (modified) proposal in March 1999 and the legal act was adopted just two months later.[20]

A model for cooperation between the institutions was laid down under the Finnish Presidency during the second half of 1999, involving the newly elected EP and the new Commission. A series of contacts were established between the Council and the EP spanning the following levels:

- Working Group chairman – EP rapporteur;
- COREPER chairman – EP committee chairman;
- The European Commission is involved as a mediator.[21]

The difficulty which the institutions face, at least at present, is that the stage of first reading is readily used by the institutions to lay down their own positions before they are ready to embark on extensive inter-institutional bargaining. Negotiations are complicated by the fact that the individuals concerned do not have a mandate, as internal discussions are still underway in their respective institutions. The Council negotiator has to keep in constant contact with the Member States, most conveniently through the Council Working Party. The negotiator for the EP has to ensure that positions of his/her political group, the respective parliamentary committee and of the plenary are reconciled. It therefore becomes increasingly difficult for the negotiators to make concessions as regards politically sensitive matters.

The EP was put on an equal footing with the Council in the legislative process with the abolition of the so-called third reading.

The first reading stage is therefore rather focused on the exchange of information and on the laying down of preliminary positions. The Treaty provisions, for the time being, do not stipulate any time-limits for the first reading, facilitating – at least in principle – the adoption of a legal act. A new feature of the co-decision procedure is that there is no longer any possibility for "*petite conciliation*", whereby the EP could voice its intention to reject the common position and the Council could then call upon the conciliation committee to meet.[22] The EP has made very limited use of this provision in the practical political process; only twice since the co-decision procedure was introduced has it resorted to this option.[23]

If the institutions cannot agree and the Council disapproves of the Parliament's amendments, the Council adopts a common position, which is transmitted to the EP and the Commission for a second reading. In principle negotiations have to be concluded within three months.[24] Compared to the first reading where the institutions are sometimes still engrossed in laying down their own position, the second reading phase is a platform for detailed negotiations and concessions by the institutions. Nine legal acts were adopted[25] between May 1999 and December 1999, covering not only directives of a highly

technical nature (concerning speedometers for two-wheel and three-wheel motor vehicles or the directive on cableway installations designed to carry persons) but also dealing with more sensitive issues such as the DAPHNE programme 2000-2004.[26]

The EP and the Council as equals in the legislative process

The EP was put on an equal footing with the Council in the legislative process with the abolition of the so-called third reading: as mentioned above, the Council had previously had the right to reiterate its common position after the conciliation procedure had failed, unless the EP could mobilise a majority of its members to put in its veto. According to the new procedure, the draft legal act is deemed to have failed in the absence of agreement in conciliation. The EP is no longer in the uncomfortable position of having to use the emergency brake, i.e. having to reject the Council's common position and therefore, in the last instance, bearing the sole responsibility for the defeat of a piece of legislation. After Amsterdam, both the Council and the EP are now deemed to be responsible for the failure of a legal act. The informal negotiation patterns developed after Maastricht, notably the trialogue, have proven to be efficient forums for pre-negotiations, and they were reconvened after Amsterdam. All five legal acts adopted during the conciliation phase under the chairmanship of the Finnish Presidency, in the latter half of 1999, were prepared in these sessions.[27] They ease and prepare the ground for the conciliation meetings, which have to be completed within a very narrow time frame.[28]

In some cases, the Council and the EP applied some rather unconventional methods to reach a compromise, for example by strengthening their own position through taking sides with the Commission. In the case of the "Culture 2000" programme, the main dispute between the Council and the EP concerned the financial framework. Whereas the EP proposed an increase in the budget for the five-year programme, the Council decided to maintain the budget at the level stipulated in the Commission proposal. By teaming up with the Commission, the Council – which had to decide by unanimity – was in a relatively strong position. The institutions finally agreed on the financial framework put forward by the Commission combined with a number of compromise amendments concerning other budgetary issues.[29]

The institutions have also seemed to have resolved the conflict over which comitology committee should be used for implementing a legislative act. The diverging opinions of the institutions have until recently led to blockages in the legislative process. In two instances, delegations in the conciliation committee failed to agree on a joint text. The new comitology decision of the Council of June 1999 will alleviate this problem by "providing for an adequate involvement of the EP."[30]

It is important to note that the conclusions on the working of the co-decision procedure after Amsterdam are only of a preliminary nature, as the Treaty has only been in force for less than one year. Building on the experience of the co-decision procedure after Maastricht and the subsequent negotiations in the conciliation committee, one can assume that it will take between two and three years until a clear pattern for negotiations between the institutions will develop, especially as regards the first reading stage.[31] What can be concluded from the initial observations is that the Treaty of Amsterdam, by introducing the possibility to adopt a legal act after the first reading, will invariably shift the bulk of the workload to earlier stages of the procedure. This will put an increased strain on the respective Presidency and on the parliamentary committees – especially in the field of transport and environment.

The EP has to develop a more coherent profile not only to shape European policies, but also to incorporate the preferences and priorities of the EU electorate therein.

Innovations for the EP outside the legislative field

Other changes for the EP, outside the legislative field, include:

- the laying down of a maximum number of members for the EP (700);[32]
- the possibility for the EP to draw up a draft electoral act;
- the basis for creating a common statute for MEPs;
- and the EP's assent is required in the appointment of the President of the Commission.

- By implication, the stipulation that the total number of MEPs should not exceed 700 will lead to a re-examination of the distribution of seats prior to new rounds of enlargement. The Amsterdam Treaty states, for the first time, that any reshuffling of the number of MEPs must ensure an "appropriate representation of the peoples". This very vague formulation will inevitably provide the basis for each group to try to bolster its own case. In its opinion for the next IGC, the Commission has conceded that it is up to the EP to propose new arrangements for allocating seats, but has offered the following ideas:
  - In theory, seats could be allocated between the Member States on a strictly proportional basis according to population, but the Commission adds that "this is not a realistic option at this stage of political integration of the Union". While this path might seem appealing to larger Member

States, it would meet with great opposition in smaller ones.

– Another possibility would be to produce a revised version of the formula on which the EP's 1992 decision on the allocation of seats was based,[33] maintaining the principle of digressive proportionality but starting from a lower minimum number of members and allocating fewer seats per capita and/or altering the population bands. The formula will, even after modification, reduce the parliamentary representation of the more populous Member States. Keeping the prospective enlargement of the Union in mind, one has to add that five small to medium-sized Member States would be joining the EU in the first round. This model would therefore widen the "representation gap" between larger and smaller states.[34]
– Another option would be a linear reduction in the number of seats allocated by the formula used up to now. The enlargement process would then have the same relative impact on the distribution of the number of members.[35]

At this point it is unclear what will become of these Commission proposals. The discussion of a reallocation of seats is one of the most pressing but sensitive topics with regard to the operation of the EP, resulting possibly in a conflict with larger Member States likely to argue for a levelling out of the present distortions in the ratio of MEP to population, and smaller Member States insisting that their present numbers remain unchanged. [36]

- Even before the Amsterdam Treaty came into force, the EP adopted a resolution on a draft electoral procedure in July 1998. It provides for the introduction of an electoral system based on proportional representation in all Member States and the creation of territorial constituencies. Another innovative provision stipulates that 10% of the total number of seats in the EP should be filled by means of a transnational list-based system relating to a single constituency comprising the entire territory of the EU.[37] The Commission is strongly in favour of this possibility of electing a number of members on Union-wide lists. It has to be noted, however, that before the electoral Act is forwarded to the Member States, so as to be transposed into national law, it still has to pass the hurdle of unanimity in Council.

- The EP resolutions on the draft statute for members stipulate that MEPs who have been elected for the first time should receive the same salary. Unfortunately, the EP could not agree on applying this rule to re-elected members as well. They were given the choice either to receive the new parliamentary allowance or to retain national parliamentary wages. After the June 2004 elections, all members will finally receive the same remuneration paid from the EU budget.[38] The draft statute also focuses, *inter alia*, on bringing an end to an alleged "*gravy train*" expenses system that has, in the past, allowed members to claim more travel costs than they actually spend, by providing for a ceiling on travel costs for members. These new rules are still in the pipeline; members are due to vote on them in plenary.

- Article 214 TEC (ex-158), which now provides that the EP is required to give its assent to the nomination of the Commission President, constitutes a vital step forward for the EP on the path to enhanced supervisory powers over the Commission. This new provision gained topical importance after the resignation of the Commission due to allegations by a committee of independent experts, triggered by Parliament's refusal to grant discharge of the 1996 EU budget. At the European Council in Berlin in March 1999, the heads of state and government nominated the former Italian Prime Minister Romano Prodi as designated Commission President. Mr. Prodi eventually won strong backing from the EP in May 1999, which gave its assent with a 77.6% majority. The EP has made its mark as a force to be

A comparative overview of the turnout for the EP elections (in percent)

	1979	1984	1989	1994	1999
EU-Total	63.0	61.0	58.5	56.8	49.4
Austria	-	-	-	67.7 ('96)	49.0
Belgium	91.6	92.2	90.7	90.7	90.0
Germany	65.7	56.8	62.4	60.0	45.2
Denmark	47.1	52.3	46.1	52.9	50.4
Spain	-	68.9 ('87)	54.8	59.1	64.4
France	60.7	56.7	48.7	52.7	47.0
Finland	-	-	-	60.3 ('96)	30.1
United Kingdom	31.6	32.6	36.2	36.4	24.0
Greece	78.6 ('81)	77.2	79.9	71.2	70.2
Ireland	63.6	47.6	68.3	44.0	50.5
Italy	85.5	83.9	81.5	74.8	70.8
Luxembourg	88.9	87.0	87.4	88.5	85.8
Netherlands	57.8	50.5	47.2	35.7	29.9
Portugal	-	72.2 ('87)	51.1	35.5	40.4
Sweden	-	-	-	41.6 ('95)	38.3

Source: Hrbek (1999)

reckoned with in this field: a veto by the EP would have entailed the selection of a new candidate.[39]

A lack of popular support?

This article has so far mainly focused on the legislative role of the EP, illustrating the transformation from a purely consultative body to co-legislator with Council. The questions which spring to mind are: have the increased powers of the EP had an effect on both the public perception of the EP, and did this manifest itself in the turnout at the 1999 EP elections? Looking at Eurobarometer, the Commission-based public opinion survey, one will find that only 37% of EU citizens feel that their interests are well protected by the EP.[40] The turnout at the June 1999 EP elections hit an all-time low, dropping by 7% compared to 1994, demonstrating the lack of popular interest on the part of the European citizens.

It is striking that as parliamentary powers have increased over the course of time, the overall turnout has declined at every election since the first 1979 ballot, from 63% in 1979 to 49.4 % in 1999. The results vary greatly from one Member State to another: the turnout ranged from 90% in Belgium, where voting is compulsory, to 24% in the UK. Only in three countries has the percentage of those finding it worth going to the polls risen – in Ireland, Portugal and Spain – by around 5% since the last election. One (hypothetical) factor, cited in the literature, to explain this trend is that these three countries receive funding from the Cohesion Fund, which might have the effect of mobilising the electorate.[41]

The tendency of an otherwise declining turnout across the majority of the EU Member States is linked to a plethora of factors varying from Member State to Member State, and only some can be highlighted at this point[42]:

- The EP is, as the only directly elected trans-national parliament, an institution *sui generis*. The role of the EP is more opaque than that of parliaments in most Member States and the EP does not enjoy the same acceptance as national parliaments. Citizens do not have a clear idea of its role and objectives within the EU;
- Closely linked to this is the absence of transnational, European media. National media still focus on national issues and national candidates. This tendency was evident in the Netherlands, for example, where the crisis in the national government contributed to the voters turning their backs on the European elections, disillusioned. European issues such as EMU and the Common and Foreign and Security Policy (CFSP) are mainly analysed and discussed as regards to their possible effects on the national level. This lack of information about European issues and the role of the EP is reflected in the Eurobarometer survey. The most common response given (61%) was that people do not feel well enough informed to vote; the second most common reason was that of not having enough knowledge about the importance and the power of the EP (59%). Only 60% of EU citizens had been informed about the EP in the papers, on the radio or television;
- The EP's censure of the Commission and the latter's downfall could have led to two possible scenarios: The fact that the MEPs finally resorted to the use of this blunt weapon against the Commission could have, on the one hand, convinced voters of the importance of the parliamentary body. On the other hand, it seems to have had just the opposite effect; turning voters away from the polls in view of this malpractice;
- The results of the elections do not have an effect on the composition of the European Commission or the Council of Ministers; as Weiler et.al. put it so pointedly, one cannot "throw the scoundrels out, to take what is often the only ultimate power left to the people, which is to replace one set of governors by another."[43] This leaves voters disillusioned as their electoral participation does not have an effect on the composition of the European "government";
- The European parties are, to a large extent, extensions of their national parties and have difficulties developing their own, specific profiles. They are unable to come up with coherent positions on issues such as the role of the EP, the reform of the Commission and developing a vision for European integration. This problem might be alleviated in the future by reserving seats for "European" as opposed to national lists, enabling, possibly, the development of a stronger stance on the integration process;
- Last but not least, the issue of a European identity (or the lack of it) has to be taken into account.[44] For citizens who see the EU as being remote from their own (domestic) concerns and problems it is unlikely that they would voice their support for the parliamentary body. These politically disenfranchised groups are more likely to turnout in national elections. Citizens who see the EU in a critical light and have no sense of European identity are more reluctant to vote at the European than at the national level. By giving their vote to the EP, they would be seen to be legitimising one of the European institutions.

Conclusions: the implications for the EP

The EP has become an increasingly important actor in the political system of the EU. However, although its competences have increased, it has failed to strengthen its links with the EU citizens accordingly. Obviously, no set recipes exist for increasing popular support for the parliamentary body. Although the media are increasingly turning their attention to the EP, this coverage is not of a constant nature. It focuses on highlights such as the refusal to grant discharge of the 1996 budget and the subsequent downfall of the European Commission. The European parties have done little to cut across national boundaries and develop their own

"European" positions. Electing a number of MEPs on European lists might, at least partially, alleviate this problem. This could encourage the development of "European" political parties and members could claim to represent a European constituency instead of a national one.

The EP has to develop a more coherent profile not only to shape European policies, but also to incorporate the preferences and priorities of the EU electorate therein. In order to establish these enhanced links with the EU citizens, a public debate on issues such as the IGC on institutional reform would be a fundamental precondition. The EP itself has highlighted the necessity of such discussion and a greater degree of transparency in its draft report for the IGC.[45] How this discussion should be organised on a practical level remains unclear. Citizens are not able to give voice to their opinion at European level through the use of basic democratic instruments such as plebiscites or referenda.

Negotiations on the IGC take place behind closed doors, secluded from the public eye. Citizens are subsequently presented with the final results which profoundly affect the way Europe works. The role of the EP, as it will be in the upcoming IGC, is reduced to that of consultant. Although there is no doubt that the two parliamentary observers will try to influence the political discourse during the IGC, the Member States are not bound by the EP's opinion. The EP has, contrary to national parliaments, no right to ratify the Treaty. The EP could gain political credibility and strength were this stipulation to be changed in the future.

The EP has to develop into a political arena where, on the one hand, actors from different political and social spheres can appreciate each other's positions and views and, on the other hand, it must gain enough coherence to be perceived as one institution standing for specific goals and aims.

It is becoming apparent that one of the EP's major tasks in coming years will be to convince EU citizens that the EU can provide solutions to policies and problems, and that the Parliament matters.

NOTES

1 The Treaty of Amsterdam extends the EP's right of assent to cases where the Council determines a breach of the Union's principles by a Member State (Article Fa TEU).

2 The forerunner of the European Commission.

3 Westlake, Martin (1994): *A modern guide to the European Parliament*, Pinter Publishers, London and New York, p. 135.

4 For a detailed account of these conditional "agenda setting powers" and an illustrative example on how the EP used these powers to its favour, see Tsebilis, George: "The Power of the European Parliament as a Conditional Agenda Setter", in: *American Political Science Review*, Vol. 88, pp. 128-142.

5 Of the 400 cooperation procedures which were concluded between July 1987 and July 1997, the Commission accepted 54% of the amendments introduced by the EP at the first reading and the Council included 41% of the EP's changes. The data for the second reading shows that the Council used the Treaty provisions, whereby it still is the main legislator, to its favour. It only included 21% of the EP's amendments. The Commission included 43% of the EP's amendments in second reading. See: Maurer, Andreas (1998): "Regieren nach Maastricht: Die Bilanz des Europäischen Parlaments nach fünf Jahren Mitentscheidung", in: *integration* 4/98, p. 218.

6 Initially only 15 Treaty items were covered by the procedure, covering articles falling into the policy fields of the internal market, consumer protection, trans-European networks, cultural policy, public health and education. See: Smith, Julie (1999): *Europe's Elected Parliament*, Contemporary European Studies, 5, Sheffield Academic Press, Sheffield p. 75.

7 European Parliament. Conciliation Secretariat (1995): Implementation of the Conciliation Procedure (Article 189b EC) in the European Parliament, PE 211.525, p. 11f.

8 Nungent, Neill (1999): "Decision-Making", in: Cram, Laura; Dinan, Desmond; Nungent, Neil (eds.) (1999): *Developments in the European Union*, Macmillan Press, Houndmills, Basingstoke, p. 147.

9 Five conciliation procedures were concluded under the Finnish Presidency in the last half of 1999. Four procedures were completed under the Austrian Presidency during the second half of 1998 and six procedures were concluded under the German Presidency during the first half of 2000. See European Parliament (1999) Conciliation Procedures – Stop Press, No. 4, December.

10 Maurer (1998): *op. cit.*, p. 216.

11 Visa procedures and conditions (article 62(2bii) TEC) and Visa uniformity rules (article 62(2biv) TEC).

12 Article 37 TEC (ex-43); Article 152 (4) TEC (ex-129); Article 93 TEC (ex-99); Article 300 TEC (2) (ex-228).

13 Article 128 (4) new title on employment and Article 139 (ex-118b). See: Nentwich, Michael; Falkner, Gerda (1997): The Treaty of Amsterdam: Towards a New Institutional Balance, European Integration online Papers (EIoP) Vol. 1 (1997) No. 015; http://eiop.or.at/eiop/texte/1997-015a.htm.

14 European Commission (2000): Adapting the institutions to make a success of enlargement. Commission opinion in accordance with Article 48 of the Treaty on European Union on the calling of a Conference of representatives of the governments of the Member States to amend the Treaties, p. 27.

15 Maurer (1999): (Co-)Governing after Maastricht: The European Parliament's institutional performance 1994 – 1999. Lessons for the implementation of the Treaty of Amsterdam. Study for the European Parliament, Directorate General for Research submitted under Contract No. IV/99/

23, p. 8.

16 See: 1999/0014/COD.

17 Decision 1741/1999/EC of the European Parliament and the Council of Ministers.

18 Directive 1999/72/EC of the European Parliament and the Council of Ministers.

19 Directive 1999/87/EC of the European Parliament and the Council of Ministers.

20 Regulation 1073/1999/EC of the European Parliament and the Council of Ministers concerning investigations conducted by the European Anti-Fraud Office (OLAF). The new act on the Fraud Prevention Office provides, *inter alia*, that the Office has its own right of initiative to carry out investigations, will be totally independent from instructions from Member States and that investigations can be carried out in the Member States as well as in all bodies, institutions and offices in the Community, http://wwwdb.europarl.eu.int/oeil/oeil.

21 Lehtiranta, Sari (2000): The impact of the co-decision procedure on COREPER and Council working groups, Lecture given at the Seminar "Committees and Comitology in the Political Process of the European Community", EIPA, Maastricht, 18.1.2000.

22 Ex Article 189b(2d) TEC.

23 The first case, on engine power, took place in 1994. On 13 January 1999 the EP voiced its intention to reject the Community initiative for the "European Capital of Culture". See: European Parliament (1999): *op. cit.* p. 45.

24 The clock starts to tick once the EP has received the Council's common position and within the Council after it has received the EP resolution. The time-limits can, subsequent to the initiative of the Council or the EP, be prolonged by up to one month. See: Article 251 TEC (ex-189b(7)).

25 Within the second reading, without conciliation.

26 This focuses on the action related to violence against children, young persons and women. Here the negotiations of the institutions concentrated on such delicate and political matters such as the definition of acts of violence and the role of the NGOs and public bodies within the programme (http://wwwdb.europarl.eu.int/oeil).

27 Acts adopted during conciliation under the Finnish Presidency include: education, training: Community action programme SOCRATES, 2nd phase 2000-2004, Culture 2000 : 1st framework programme 2000-2004, Directive on safety and health protection of workers at risk from explosive atmospheres (ATEX), SAVE II programme: Multi-annual programme for the Promotion of Energy Efficiency in the Community, ALTENER II programme: Multi-annual programme to promote renewable energy sources.

28 Article 251 (5) TEC (ex-189b (5). The time-limit of six weeks can be prolonged by two weeks.

29 The EP wanted to increase the budget to EUR 250 million, the Commission proposed EUR 167 million. European Parliament (1999): Conciliation Procedures – Stop Press, No. 4.

30 For a historical overview of the comitology system and a detailed analysis of the new comitology decision, see: Haibach, Georg (1999): "Council Decision 1999/468 – A New Comitology Decision for the 21st Century!?", in: *Eipascope* 99/3.

31 Interview with Commission Official, General Secretariat of the European Commission, Brussels, 7.1.2000.

32 Article 189 TEC (ex-137); Article 190(4) TEC (ex-138); Article 190(5) TEC (ex-138).

33 The allocation of seats by Member State proposed by the EP was based on the following formula: six seats to be allocated to each Member State regardless of population, plus an additional seat per 500,000 inhabitants for the number of inhabitants between one and 25 million, an additional seat per million inhabitants for the number of inhabitants between 25 and 60 million, and an additional seat for every two million inhabitants above 60 million. However, this formula had not been strictly applied. The EP proposal was agreed upon by the Edinburgh European Council on 11 and 12 December 1992.

34 On the issue of representation, see: Edward Best (1999): "Why are we weighting?", Discussion Paper for the Colloquium "Rethinking Europe for the New Millennium", Maastricht, 5-6 November, p. 17.

35 European Commission (2000): *op. cit.*, p. 8.

36 Presently one German MEP represents 820,000 citizens, whereas an MEP from Luxemburg represents 65,000 citizens. Neunreither, Karlheinz (1999): "The European Parliament", in: Cram, Laura; Dinan, Desmond; Nungent, Neil (eds.): *Developments in the European Union*, Macmillan Press, Houndmills, Basingstoke p. 73.

37 The EP has the possibility to present an additional proposal that would only be applied in 2009. http://wwwdb.europarl.eu.int/oeil/oeil.

38 Currently the salary MEPs receive varies greatly, from the ECU 2827 of a Spanish MEP to the ECU 9635 of an Italian representative (http://wwwdb.europarl.eu.int/oeil/oeil)

39 The Treaty of Maastricht already provided in Article 158 (2) for the nominated Commission college as whole to be subjected to a vote of approval by the EP before being confirmed by the Member State governments. See Westlake, Martin (1998): "The European Parliament's Emerging Powers of Appointment", in: *Journal of Common Market Studies*, Vol. 36, No. 3, p. 439f. The Prodi Commission assumed office in September 1999 after the EP endorsed it by 414 votes to 142, with 35 abstentions (http://www.macmillan-press.co.uk/politics/EU/euprodicomm.htm). The 19 nominated Commissioners had to appear, before their vote of approval, before the different EP committees for hearings, where they presented their principle ideas and answered a series of questions. In order to prepare these hearings, the EP submitted questionnaires to each Commissioner designate. The written answers can be viewed on: http://europa.eu.int/comm/newcomm/hearings/index_en.htm.

40 European Commission, Eurobarometer (1999): Public Opinion in the European Union, Report Number 51, Release: July 1999, Fieldwork: March-April 1999, European Commission, Directorate General X, Brussels, p.84.

41 Hrbek, Rudolf (1999): Europawahl '99: Ein stärker politisiertes EP, in: *integration* 22, Jg. 3/99, p. 158.

42 For an analysis of the results of the EP elections – held from 10 to 13 June 1999 – and an exact overview of the composition of the newly elected EP see: June 1999 European Parliament Elections, http://www.macmillan-press.co.uk/politics/EU/euparlelections.htm. For country reports on the EP elections in Austria, the UK, France and Spain, see: ECPR (1999): ECPR News, The Circular of the European Consortium for Political Research, autumn 1999, p. 12-20. A detailed analysis of political parties at the European level and the electoral dimension is also given by Smith (1999), *op. cit.*

43 Weiler, Joseph; Haltern, Ulrich; Mayer, Franz (1995): "European Democracy and Its Critique", in: *West European Politics*, No. 4, p. 8.

44 On the question of a European identity, see Leitner, Christine in this issue.

45 European Parliament (1999): Draft report on the preparation of the reform of the Treaties and the next Intergovernmental Conference, Committee on Constitutional Affairs, Rapporteurs: Dimitrakopoulos, Giorgios; Leinen, Jo, PE 231.873. ❑