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The European Parliament from the 1979 direct elections to the present

A personal perspective on institutional developments

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The 1975 referendum: Yes to Europe

I joined the staff of the European Parliament (EP) in February 1979, just a few months before the first direct elections and when it still had only 198 nominated MEPs from the nine national parliaments from the then nine Member States. I immediately enjoyed its multinational character, working with staff colleagues and politicians of so many different nationalities and cultures. I did not appreciate, however, how few powers it actually enjoyed. There had been no full-scale Treaty change since the Treaty of Rome in 1957, although the Parliament had been given a few new budgetary powers when the system of own resources had been first set up in 1970. On legislation, however, its role was limited to making comments on draft Commission proposals in non binding resolutions and without any formal means of reacting if the Commission and Council disagreed with or simply ignored its suggestions.

I was not long enough at the European Parliament before direct elections to judge how it then saw its role. The MEPs were all members of their national parliaments as well, and thus only very part time European parliamentarians. The European Parliament was, however, also very small

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and MEPs and EP staff had clearly forged close links. Moreover, it had clearly begun to forge its own identity. While formally referred to as the Parliamentary Assembly it began to call itself the European Parliament by the early 1960s. Even before direct elections it began to take initiatives of its own in certain policy areas and, as I point out later on, even started to take an interest in the contents of delegated legislation in the agricultural area by the late 1960s, at as time when their national parliaments were showing little interest in such legislation. There

has been some recent academic research in the work of the pre 1979 European Parliament and it would be useful to see this further extended, especially to study whether particular nationalities or political groups were more ambitious for the EP's development than others.

What is clear, however, is that the first direct elections in June 1979 made a big difference, for a start more than doubling the size of the European Parliament to 410 MEPs and also changing its self-image. A good number of the new MEPs still had dual mandates, but many others were now full time MEPs and sought to make or consolidate their political reputations at European rather than just national level. The high turnout in those first direct elections (an average of 62 per cent which would have been even higher without the 32.3 per cent turnout in the UK) also gave the new members the feeling that they had been given a mandate to strengthen the role and influence of the European Parliament.

There was thus a feeling of excitement and of anticipation which was also communicated to staff members such as myself and this was reinforced by the much closer relations that existed then between the permanent staff and the MEPs. In a much smaller parliament we got to know each other much more quickly and for EP Committee staff at least we all set around tables with MEPs in small committee rooms in Brussels and also travelled with them in committee meetings and delegations around the various Member States.

There were, however, still no new formal powers for the EP. It immediately sought to maximise the use of its budgetary powers, the one area where it did have significant formal leverage, by rejecting the annual budget. On the other hand its legislative powers remained very weak. Respect for it from the other European Union (EU) institutions was not very apparent. Practically all information on European Community (EC) decisions was filtered through the Commission and formal links between the EP and Council were almost non-existent.

Promoting the European Single Market in the absence of European Treaty change

My first committee was that on Economic and Monetary Affairs and Industrial Policy, but which also had the primary responsibility for internal market policy. The Committee chairman after direct elections was the then relatively unknown Jacques Delors and it also contained a considerable number of MEPs, not least some of the UK Conservative MEPs, with a particular interest in strengthening the European internal market and all of its four freedoms. But how could they achieve leverage on all this in the absence of formal Treaty powers? Over the next few years MEPs used a variety of means, making use of an important judgements of the European Court of Justice (ECJ), building on these judgements in the EP's own Rules of Procedure and in their practice on single market proposals and setting up a group of likeminded MEPs and business and other leaders to lobby for far reaching change, not least in the reduction of border controls.

The key ECJ judgement for the Parliament was the *Isoglucose Case* of 1980 (cases 138 and 139/79) where the Council had adopted a regulation on a proposed agricultural regulation concerning the artificial sweetener Isoglucose without waiting for the EP's opinion. The EP then challenged this decision in the ECJ. This case was doubly important for the EP, in that it established that the EP was entitled

to intervene in legal proceedings before the ECJ and that it struck down the adopted regulation on the grounds that consultation of the EP was a democratic rather than merely formal requirement and that the Council had to wait for the EP opinion.

What the Isoglucose judgement did not determine was how long the Council could be forced to wait before receiving the EP opinion and whether any such delay was reasonable or justified. Nevertheless, the Judgement did provide new leverage for the Parliament, which it proceeded to build on in a reworking of its own Rules of Procedure.

A great weakness of the EP's legislative role had been that it had no direct contact with the Council, was kept informed of the progress of legislation entirely by the Commission and was overly dependent on the Commission accepting its suggested amendments. I can well remember cases where the EP would suggest, say, 20 amendments and the Commission would announce that it was accepting two in their entirety, six in spirit (while often almost completely changing them) and rejecting the others.

After Isoglucose the EP Rules were changed so that there was a new distinction between EP votes on individual amendments and the adoption of its final formal opinion on a proposal. The EP could thus postpone a final vote on a Commission proposal until the Commission had given its position on the EP amendments and, even more significantly could refer a proposal back to the relevant committee for reconsideration if the Commission were to reject the EP amendments or otherwise provide unsatisfactory assurances for the EP. The EP also introduced greater transparency for its own amendments by introducing two columns for its legislative texts, with the Commission's proposals in one column and its own amendments in another.

The second ECJ decision whose implications were much discussed in the EP Economic Committee was *Cassis de Dijon*, which provided for much greater scope for mutual recognition of national standards rather than detailed harmonisation of national standards, which was not only time-consuming but often alienated public opinion in individual Member States. The MEPs on the Committee thus advocated much greater use of mutual recognition and, where harmonisation was required, advocated a new approach with less detailed harmonisation and concentration on conformity with a more limited set of essential health, safety and environmental requirements and implementing standards.

All these changes did not compensate for the EP's lack of legislative power but did mean that it was able to gain more influence. One clear example that I can remember were the EP Committee's discussions on the Commission's proposals for a Toy Safety Directive which the Committee considered to be far too detailed (including, if my memory is correct, diagrams indicating the depth of water in which beach-balls could be bounced). The Committee advocated a much less detailed set of requirements and refused to provide an opinion until after the legislature had expired.

A number of MEPs also became tireless advocates for the proper implementation of the four freedoms and helped to pave the way for the subsequent adoption of the 1992 Single Market Programme. One of the ways by which they lobbied was through the Kangaroo Group of likeminded MEPs from different political families along with business and other interests.

Although they were interested in all of the internal market they had a special interest in eliminating unnecessary border controls and the name of the Kangaroo Group was meant to allude to its ability to jump over fences. One of its most colourful members, the German SPD MEP, Dieter Rogalla, would come to committee meetings with a little model of a customs barrier which he would lift up and down during the discussions. The influence on the subsequent Schengen Agreement was particularly clear and the Kangaroo Group is still in existence in 2022.

The Single European Act and the subsequent EP rules changes

For the first few years after the first direct elections the EP h was given no new formal powers beyond those pre-existing ones on the EC annual budget. It did. however, push for far-reaching institutional reform under the leadership of Altiero Spinelli, in particular, and adopted the Draft Treaty on European Union, which would have changed the institutional balance and given the European Parliament a much more important role. It was not adopted but did contribute to a new emphasis on Treaty change which, along with the need for new impetus on the Single Market, led to a new EU Treaty which came into force in 1987.

The Single European Act (SEA), the first major reform of the treaties since 1957, both facilitated the adoption of Single Market legislation and also gave more powers to the European Parliament by introducing the two reading cooperation procedure for certain categories of legislation, including that on the Single Market.

The new SEA powers for the EP certainly gave it new influence, since it kept the EP in the legislative process for a much longer period and increased its powers of leverage. Its main limitation, however, was that it required the Commission to agree with the EP if its proposed amendments were to have a lasting impact.

My main observation, however, again concerns the significance of the EP Rules of Procedure and of the modifications that were made in 1986 to implement the provisions of the SEA, with UK Conservative MEP, Christopher Prout as the rapporteur. The first paragraph of its explanatory statement was explicit about its objective 'The committee approaches the Single European Act, therefore, as an opportunity given by the Member States to Parliament to gain more influence over the content of future EC Legislation. It is up to us to take full advantage of it'.

There were a number of innovative procedures in the Prout report (Doc A 2-131/86 of 1986), such as on the consequences of EP rejection of a proposal (when it had no formal power to do this) or the need for re-consultation of the EP when the original Commission proposal on which the EP had been consulted had since been significantly modified. The most remarkable, however, were those introducing self-imposed EP restrictions on its amendments in second reading to the common position of the Council. The new rule (then Rule 39 I) included, among other restrictions, that an amendment should be admissible only if it sought to restore wholly or partly the text adopted by Parliament at its first reading.

The main exception was when any new amendments in second reading were compromise amendments representing an agreement between the Council and Parliament.

The Committee proposals were then supported by the EP as a whole. This rule was not always easy to implement

in practice and indeed the other EU institutions occasionally used it against the EP. The significance of this self-restricting clause was, however, very considerable, since it reduced the EP's power of manoeuvre while emphasising that the EP was a serious and responsible legislator.

The Maastricht Treaty and the introduction of co-decision

If the SEA was an important step forward for the Parliament, the Maastricht Treaty was even more important, giving the EP a much stronger role, in particular, in EU legislative procedures. The new procedures were only introduced in certain policy areas, coexisted with the pre-existing simple consultation and cooperation procedures and had, as we shall see, some procedural quirks. A few academics even argued, using game theory models that it was a step backward compared to the existing cooperation procedure. Moreover, some in the Council wished to underplay the importance of the new procedure, by trying to label it as the bureaucratic sounding Article 189 B Procedure, but the EP's reference to it as 'co-decision' gradually became accepted and conveyed a much greater sense of its real significance.

In the first place it gave far more leverage to the EP than the pre-existing procedures, and made it less dependent on the Commission and a much more equal partner in the legislative process. In particular, the introduction of co-decision meant that the EP started to have much more direct contacts with the Council.

This was also true of staff to staff contacts, as my own personal experience showed. Throughout my career on the EP committee staff the status reports on the progress of EU legislation had been made exclusively by European Commission officials. As the EP powers grew we gradually became more aware of the Council staff who were also following what was happening on legislative files in the EP and would occasionally be present at EP committee meetings but without being called upon to speak. Just after the final coming into force of the Maastricht Treaty I was phoned by one of these Council officials, inviting me to have lunch for the first time in the Council's cafeteria. In his own *words* 'We need to get to know each other better'. A new era in inter-institutional relations had indeed arrived.

The EP Rules of Procedure were again adapted but we had, of course, little idea as to how the new co-decision procedures might work in practice. A colleague in another EP Committee experienced the very first co-decision procedure in committee but I was lucky enough to be the EP staff member working on the second such file.

The new procedure provided for conciliation between the EP and Council when there was no immediate agreement on a file, with the Council represented by the rotating Presidency and the EP by two specialised Vice Presidents as well as by the chair and rapporteur of the responsible Committee and other committee members chosen on a broadly proportional basis between the political groups. The Commission was also there as a facilitator.

One of the first questions we had to resolve was how to seat the three delegations. I discussed this with my Council counterpart at our very first conciliation meeting and we actually changed the seating plan so that the EP and Council delegations were not confronting each other but had the two respective EP and Council chairs sitting next to each other, as we felt that this would create a greater spirit of teamwork. This precedent was not subsequently

followed, but does illustrate the pioneer atmosphere in which we were working

There were several other innovations in the early days of co-decision. One was that the EP quickly set up a dedicated conciliation unit in addition to the pre-existing committee staff. This unit worked with the two EP conciliation Vice-Presidents and rapidly became specialised in the procedural questions involved, but there was a potential problem. The relevant committee staff would work on the early stages of the procedure and the new unit would take over for the final conciliation phase, with the possibility of rivalry and tension between the two sets of staff. In practice, in my own case, procedures generally worked well because I had good relations with the head of the conciliation unit, but it was a powerful illustration of the importance of such personal contacts.

A second innovation now seems obvious but was not necessarily so at the beginning and that was the development of so-called 'trilogues'. Since formal conciliation meetings between the EP, Council and Commission as set out in the Maastricht Treaty and in the new rules might involve far too many participants to permit informal negotiations between the three parties, the practice developed of smaller and more informal meetings, which were given the catch-all title of trilogues, as they are still known to this day. Some of them were indeed quite small but some still involved a considerable number of participants (I counted over 30 people in the room at one such early meeting).

Since these early days the three institutions have continued to show considerable creativity in the ways in which co-decision procedures have been implemented. If you look at the co-decision procedures in the Treaties and in the Rules of Procedure or look at an explanatory flow-chart, they look extraordinarily complicated and potentially bureaucratic and time consuming. In practice new time-saving procedures have developed on a more informal basis between the institutions so that many legislative files are now concluded by early first and second reading agreements that were not laid down in the Treaties. In the early days of co-decision a considerable number of legislative files ended up in third readings and formal conciliations whereas now they are almost all resolved at much earlier stages. Nothing is perfect, however, and the undoubted advantages of these accelerated procedures have been accompanied by accusations that more is going on behind closed doors and that there has been a consequent loss of transparency.

Just one final word on the early days of co-decision. Not only was it restricted to relatively few legislative areas, but the Maastricht Treaty also included a provision that if conciliation broke down the Council could impose their original common position unless the EP was able to override this by an absolute majority of its members. This was a heavy procedure and a not particularly sensible one, as the Council imposition of its original common position meant that any gains in EP-Council negotiations where the two institutions had been able to agree on some specific issues would be lost. The Council only tried this on one occasion, in the case of Open Network Provision (ONP) Voice Telephony but the EP did manage to obtain an absolute majority of its members, and to override the Council., less perhaps because of the substance than because the Council's action was seen as an institutional challenge to the EP. The Council never tried this again, and the possibility to do this was deleted in the subsequent Amsterdam Treaty.

Since then the Amsterdam, Nice and Lisbon Treaties have progressively extended the scope of EP-Council co-decision, so that it now covers most areas of EU legislation and has become the 'ordinary legislative procedure'.

A parenthesis; the European Parliament and 'Comitology'

One of the most seemingly arcane areas of EU procedures has been that of 'comitology', by which adoption of secondary legislation can be conferred by the legislature on to the executive (in pre-co-decision days essentially by the Council to the Commission) but subject to a system of controls by the legislature. In the case of the Council this scrutiny was carried out by a large number of committees of experts from the Member States, and hence the shorthand reference to 'comitology'.

Interestingly the European Parliament sought to be informed of what was going on in secondary legislation on agricultural matters in the days of the old nominated Parliament, at a time when the EP had only weak consultative powers on the primary legislation and when the national parliaments of the then Member States had little experience of careful scrutiny of delegated secondary legislation. The idea that some degree of EP scrutiny of secondary legislation was required thus took root almost from the beginning.

As described earlier in this insight, the EP's role on primary EU legislation was steadily enhanced after 1979, from simple consultation to cooperation and on to co-decision. As this occurred it seemed increasingly incongruous that the EP should be given no role nor even be properly informed of any ensuing secondary legislation ('statutory instruments' or decrees, as they are called in certain EU countries), not least because 'the devil is in the detail' as certain MEPs (often British) liked to remind the EP.

The struggle for a greater Parliamentary role on 'comitology' was a long one and I was fortunate (or unfortunate) enough to be involved in several of the ensuing phases. This inter-institutional conflict was not always comprehended by all MEPs. One very prominent MEP even described it as akin to a medieval theological argument on the sex of angels but another was probably closer to the mark when he said that he did not understand comitology at all, but did see it as a raw power struggle between the institutions.

After the adoption of the Single European Act the existing system of comitology was codified in 1987 but the EP was unhappy with the reform that not only gave it no role of scrutiny to match that given to the Council, but was also not informed of the measures that were transmitted to the Council scrutiny committees nor even about the committee meetings themselves.

In 1988 EP President Plumb and Commission President Delors reached an agreement that all Commission draft implementing measures would be forwarded to the EP, although in practice a considerable number of measures fell between the cracks. The measures that were received by the EP were then transmitted by an EP staff member to the concerned EP committees. I carried out this task for a while and I even owed my transfer from Luxembourg to Brussels as a quid pro quo for me taking it on.

The EP's concerns in having such a weak role became much more significant after the Maastricht Treaty gave a power of legislative co-decision to the EP, and the EP not only sought to be more systematically informed about implementing measures but also to have a say on these measures

when necessary. Disputes over the EP role on comitology became a regular feature in some of the early co-decision files and the Council-EP breakdown of negotiations mentioned above on the issue of ONP Voice Telephony was indeed primarily over this issue.

A number of efforts were made to resolve the main issues of principle both in general agreements (the so-called Modus Vivendi' in 1994 and a new Council Decision in 1999) as well as in a whole series of agreements in specific sectors which all gave the EP a more significant if still not completely satisfactory role.

Eventually the Lisbon Treaty created a new distinction between 'delegated' and 'implementing' acts. In the former category the EP was finally put on an equal footing with the Council to object to a delegated act within a given time limit or indeed to revoke the delegation of powers to the Commission. Even this much more far-reaching agreement has not always proved easy to apply and further inter-institutional negotiations have been required. The EP has, however, developed procedures as to how to handle delegated and implementing acts within the affected EP committees, which can also bring their concerns to the plenary. On several occasions the EP has thus objected to a delegated act and caused it to fall.

The EP's powers of censure of the Commission and its evolving role in approving appointments to EU posts as well as confirmation hearings at the European Parliament for nominees to the European Commission

The power to censure the Commission was one of the first powers to be given to the European Parliament, in limited form even in the ECSC Treaty and in more generalised form in 1965 for the Single Commission for the European Economic Community (EEC) and Euratom Treaties. It is often forgotten that this power was invoked on four occasions in the old nominated Parliament before 1979 and with formal votes taken on two of these occasions but with few votes in favour.

Votes of censure have since been taken on a number of occasions since direct elections and several of these have attracted considerably more support than those before 1979. None of them have been adopted, however, although one of them, taken in 1999 on the 1996 budgetary discharge obtained 232 votes in favour to 293 against and 27 abstentions. This latter vote was, however, of great significance in that the subsequent follow-up led to the fall of the Santer Commission when it resigned in anticipation of a vote of censure. This was clearly a key moment in relations between the Parliament and the Commission and led to a lasting change in the balance between the two institutions.

The main problem with the EP's power of censure is that it has been an all or nothing power, requiring the resignation of the entire Commission. Its use is understandable when political groups or individual groups of MEPs wish to register a protest against a policy or pattern of conduct of the Commission, but is of less value when Parliament is more concerned with specific censuring of a part of the Commission or of an individual Commissioner rather than in wishing to bring down the Commission as a whole. The Parliament has devoted considerable effort, therefore, in seeking to redress this problem in a pragmatic way without undercutting the formal collective responsibility of the Commission. Subsequent EP-Commission Framework Agreements (see below) have covered this problem and how the Commission

should react in the case of the EP asking it to withdraw confidence in an individual Commissioner.

Besides the power of censure, the EP has also carved out for itself a very extensive role as regards appointments not just to the Commission but to other EU posts as well. This has been another area where the EP has developed in a very different way from Europe's national parliaments whose role on executive appointments tended to be weak or non-existent, especially when compared to the Advise and Consent powers of the US Senate on a large number of posts. The EP, however, now has a very significant role on many if not all EU appointments, a decisive role in some of them and one giving them a considerable amount of leverage in other cases.

The EP also chose to innovate in how it would go about approving certain appointments. Confirmation hearings have long been of key importance in the US Congress but have not generally been a feature of national parliamentary practice in European countries. How did the idea come about in the EP?

The most important area in which the EP sought to carve out a real role for itself was as regards appointments to the European Commission. When I began to work in the EP in early 1979 the EP had no formal role in the appointment process (in spite of the fact that it was already able to censure the Commission). In the 1980s the EP managed to develop an informal role for itself, holding a debate and vote on the incoming Commission in 1981, being given more of a say by the Member States in the Stuttgart Solemn Declaration of 1983 and getting the new 1985 Commission to wait for a confidence vote before it took up its oath of office (after Garret Fitzgerald, the then Irish President in Office of the Council, had met with the EP's Enlarged Bureau to discuss the nomination of Jacques Delors as President).

In 1989, however there was an important precedent in another area when the EP was consulted on appointments or reappointments to the European Court of Auditors. The Parliament's opinion on these nominations was not binding and when Parliament proposed rejection of the French and Greek nominees, the former was withdrawn but not the latter. It was, nevertheless, an important step forward

In the Maastricht Treaty the EP's powers were further reinforced by providing for consultation of the full Parliament instead of just its Enlarged Bureau on the nominee for Presidency of the Commission and for an EP vote of confidence in the Commission as a whole before it was formally appointed by common accord of the governments of the Member States.

The Maastricht Treaty also provided for the EP to be consulted on the nominee to be the President of the European Monetary Institute and subsequently on the nominees to be members of the Executive Board of the European Central Bank. It was finally itself given the power to appoint an EU Ombudsman. For the first time the EP was beginning to be given a more significant, if still limited, role as regards EU appointments.

As in earlier cases described in this insight, the EP used its post-Maastricht Treaty revision of its Rules of Procedure to reinforce its new but still limited role in appointments processes. As regards the nominee for President of the Commission, where the Treaty provided for the EP simply to be consulted, the new rule 32 called, in the case of a negative vote within the EP, for the governments of the Member States to withdraw their nomination and to submit a new one. New rule 33 set out the procedures for the EP to vote on the

Commission as a whole and, for the first time, introduced the idea of confirmation hearings, with the nominees for individual Commission posts being requested to appear before the EP committee responsible for the specific policy area concerned. The idea of such hearings had been discussed by MEPs and staff for some time, but the exact modalities still had to be worked out. The new EP rules also provided for confirmation hearings on nominations to the Court of Auditors and to be President of the European Monetary Institute.

The first test of the new procedures concerned the nomination of Alexandre Lamfalussy to be the President of the European Monetary Institute. The provision in the EP rules for a confirmation hearing had been created by the EP itself and there was no formal obligation on him to accept. He not only agreed to do so, but also to fulfil another request by the EP, namely to submit written answers to 10 questions posed by the EP's responsible Economic and Monetary Committee. The first ever EP confirmation hearing of this kind then took place in front of the Economic and Monetary Affairs Committee on 10 November 1993.

I was directly involved in this process, in particular by accompanying the chair of the EP's Monetary Subcommittee to Washington DC to see, among other matters, how Congress went about organising Congressional hearings for nominees to the US Federal Reserve. We were shown the forms that nominees had to fill in, and the type of questions to which they were submitted. On return to Brussels I was requested to draw up a background note for the consideration of key members of the Economic and Monetary Affairs Committee. Most of them were personally of the mind that there needed to be far less detailed forms on financial disclosure and other matters to fill in (the EP's small staff would not then have been capable of managing this anyway) and that questions to the nominee should focus on his or her professional life and on their objectives on economic and monetary policy and not touch on the personal life and financial situation of the nominee, as was so often the case in the US.

Alexandre Lamfalussy passed his confirmation hearing with flying colours in the Committee and his nomination was then approved by the EP as a whole. The EP Administration did, however, on practical grounds, turn down the Committee's request for a full transcript of the hearing so that the EP as a whole would be as fully informed as possible.

After this successful precedent (and less successful experience with post Maastricht nominations to the European Court of Auditors where the two Member States concerned refused to replace nominees who had received negative votes within the EP) the next major test of the new EP Procedures came with the establishment of the new European Commission at the end of the long period of leadership of Jacques Delors.

Jacques Santer of Luxembourg was eventually nominated by the Member States but the EP approval of his nomination in July 1994 was only by the very close vote of 260 to 238 with 23 abstentions. The first question to resolve afterwards was whether Santer would agree for the Member States nominees to be subject to confirmation hearings before the EP would vote on the Commission as a whole. Again there was no formal obligation for him to do so and his predecessor Jacques Delors advised him not to agree. Perhaps because of his position of weakness after the close vote

in the EP, he did, however, agree to such hearings.

The hearings were finally held from 4-10 January 1995 and were held in public but with the subsequent committee discussion as to how the nominees had fared being held in camera. Procedures were not completely harmonised between committees, primarily as to whether the nominees should have to fill in prior written questionnaires or not. The main problem, however, was how to judge the performance of individual commissioners, as the EP did not have the power to reject individual nominees and could only vote on whether to approve the Commission as a whole. The solution found was for the committees to send letters to the EP President (then Klaus Hansch) giving their appreciation (or lack of it!) of the nominees' handling of their hearings. A decision was then taken by the President to publish the letters as a whole, with some of them being quite critical either of the distribution of portfolios or of the quality of individual nominees, with that on the Danish nominee even stating that ' if her performance were representative of the entire Commission, the members of the committee would feel bound to vote against the Commission's investiture on 18 January'. In the end none of the nominees was withdrawn (although some minor adjustments were made to portfolios) and the EP then voted by a very comfortable majority to approve the Commission as a whole.

During this time I was now on the staff of the then Institutional Affairs Committee and was closely involved both in the preparatory work for the hearings, in following how they went and in the subsequent post mortem. The general consensus was that they had been a success, ensuring greater transparency on the organisation of Commission portfolios, permitting committees to get to know both the policy priorities, levels of knowledge and above all the personalities and attitudes towards the EP of the individual nominees, and finally enabling the EP to provide benchmarks as to how it would subsequently judge the new Commission.

Since this initial experience in 1995 the EP role on the appointment of the Commission has been further reinforced and confirmation hearings have taken place before the approval of all subsequent Commissions. They have often resulted in considerable suspense, reallocation of portfolios and successful calls for individual nominees to be replaced by others, with a critical question for the EP being on the number of negative assessments of individual nominees being required to trigger threatened or actual EP rejection of the entire Commission. The hearings have also enabled the EP to set a number of criteria for an incoming Commission, such as the need for maximum gender balance.

Confirmation hearings have continued to be held by the EP in other contexts as well, notably for nominations to the Court of Auditors and for the European Central Bank as well as for the EU Ombudsman (where the EP decides on its own). They have also been extended to less formal contexts as well, such as on the nominations of certain Executive Directors of EU decentralised agencies, as discussed later on in this insight.

The nature of the EP role on the nomination of the President of the Commission has continued to be at the centre of attention in more recent times, with the EP's support for the Spitzenkandidat or lead candidate system, successfully used in 2014 and unsuccessfully in 2019, with its future

use currently being in the balance (and probably closely tied to the question of an additional Europe-wide constituency at the 2024 EP elections). Interestingly enough, however, this idea was already mooted in MEP David Martin's contribution in the preparatory work for the Amsterdam IGC in the mid 1990s when he called on each European political party to go into EP elections with their own candidate for the Presidency of the Commission.

A final issue has been on the EP role on other nominations besides those to the Commission, where the EP's role has evolved as regards nominations to EU agencies (again as discussed below) but less so as regards other nominations. In its preparatory papers for the Amsterdam Treaty, the Institutional Affairs Committee had suggested an EP role as regards nominations to the European Court of Justice and to the then Court of First Instance. This idea was rejected outright by the ECJ but the Court of First Instance did not completely close the door when they said that any such EP role should be limited at evaluating the professional qualifications of the nominees. In the end these proposals did not gain any further traction, and the EP still has no role on such nominations.

German Unification

German unification posed a new and unfamiliar challenge for the European Union, how to accommodate what had been an independent country with a low standard of living and considerable environmental and other problems within the EU acquis as rapidly as possible and without lengthy enlargement negotiations. This was also a challenge for the European Parliament which set up a Temporary Committee on German Unification to adopt the necessary EU legislation.

This would be an extensive story in its own right and which I again witnessed at first hand as a member of the Committee staff and working directly with its general rapporteur, the UK Labour MEP Alan Donnelly. I would just highlight a couple of points at this juncture.

Firstly, it again showed the capacity of the EP to make procedural innovations. Normally EU legislation is adopted on the basis of reports from the specialised EP Committees but on this occasion, this task, to the anger of some of the EP standing committees, was primarily delegated to the Temporary Committee, the only time that an EP temporary committee has been given legislative powers.

Secondly it showed that the EP could act extremely quickly when it was necessary to do so. The political imperative for this was clear but there were also potential downsides. In several areas, for example, the German authorities assured the EP that derogations were not required in certain environmental areas, in particular, and yet they proved to be necessary not long afterwards.

Inter-institutional relations in five other episodes

There are a number of areas where inter-institutional relations have been put to the test, Here are a few examples with which I have been directly familiar.

Framework agreement with Commission

Over the years the European Parliament has sought to increase its powers of scrutiny and control over the Commission, with its reinforced role in the appointment of the Commission giving it greater leverage to achieve these objectives as well as to regulate a number of problems that have risen as regards the relations between the European Commission and

the EP. These have been very varied in nature, from procedures for provision of information and documents, to the presence of the Commission at EP meetings, to cooperation on legislative procedures and planning, and many others.

Many of these issues have been regulated through ad hoc agreements, but the EP has increasingly sought for Commission undertakings to the EP to be codified, first in two codes of conduct in 1990 and 1995 and then in more far-reaching Framework Agreements between the EP and Commission that were negotiated and renegotiated in 2000,2005 and 2010. The latter ones, in particular, have proved highly controversial with the Council, which they have considered to have tied the Commission too closely to the EP and to have led to an increasing imbalance in inter-institutional relations.

EP right of legislative initiative

One of the familiar arguments that has been regularly cited is that the EP is not a 'real Parliament' because of the European Commission's monopoly of the right of legislative initiative. In fact this gap in its powers has been regularly debated in the EP and, in his report preparing the EP's position for the Maastricht Treaty, David Martin argued for this matter to be addressed. He again wrote the preparatory report for the EP before the Amsterdam Treaty negotiations, and this time was convinced that the EP might indeed be in a worse position if the Commission lost its monopoly, and the legislative right of initiative was shared not just by the EP but also by the more powerful Council. Moreover, the gap in its powers was probably more apparent than real, as the EP had many means to convince the Commission to take up its suggested initiatives.

The whole matter is now back on the table during the current Commission, with the EP political groups pushing for the EP to be given a formal right of initiative, with one of the key arguments in its favour being that EU citizens will never grasp this gap in the EP's powers.

Climate diplomacy of EP at COPs and elsewhere

The annual Conferences of the Parties (COPs) on Climate Change have progressively become more important as public concern on the issue has steadily become greater. The EU always sends a large delegation to these COPs, with the Commission and Council playing key roles. The EP does not send a separate delegation, but a considerable number of its MEPs and staff are accredited as part of the EU delegation. What has been less clear is the role and status of the EP component.

From my own personal experience the EP representatives can play a useful and distinctive role. At some of the COPs at which I was present they were able to contact other national parliament representatives, in some cases to seek to convince them to ratify the Kyoto Protocol. On one occasion a separate EP committee delegation even went to Moscow to try to work on members of the Russian Duma.

On the other hand at the meetings at which I attended, the EP representatives at COPs were not allowed to be present at the coordination meetings of the EU delegation and had to be briefed on what had occurred by the responsible Commissioner or Council Presidency Minister. On one occasion the MEP who chaired the EP component to the delegation suggested that he alone be invited to participate, but even this was not accepted. The EP subsequently sought

to redress this matter in a number of its resolutions and in the EP-Commission framework agreements referred to above.

EP relationship with the developing network of EU agencies

One striking recent feature of EU institutional development has been the creation of decentralised EU agencies, so that there are now over 35 such agencies headquartered in all but a handful of EU Member States, and more are likely in the future. Brussels, Luxembourg and, to a lesser extent, Strasbourg are still the main centres of EU activity, but EU agencies are much more dispersed than in the past. Some of these agencies are small and mainly carry out information gathering but others have larger staffs, substantial executive and other powers, and in some cases even have considerable financial autonomy.

Many in the European Parliament were initially critical of this geographical dispersion of agencies on financial and other grounds, but they are now more broadly accepted, not least because of the advantages in terms of public perception of a more decentralised EU.

What has remained controversial, however, has been the nature of the EP's relationship with such agencies. When I worked at the EP's Committee on Environment, Public Health and Food Safety, we had close ties, and made regular pastoral visits to five of these agencies and yet, even within one Committee's area of competence, our relations with each of 'our' agencies took different institutional forms. They were especially strong in the case of the more recent agencies, where the EP had been able to carve out a greater scrutiny role for itself by being involved in co-decision in the founding regulations of these agencies. Other EP Committees had differing relations with 'their' agencies, ranging from quite strong in cases to very weak, especially in the cases of the older agencies. Committees' powers ranged from a role in the nomination or re-nomination of agency executive directors (including informal confirmation hearings), to having EP-nominated members on agency boards (in some cases after a rigorous committee selection procedure, including committee hearings) with regular reporting requirements to the committee. In one case there was even a procedure for MEPs to make a direct research request to an individual agency.

Besides the specific committees, three EP Committees with transversal powers also had a great interest in the decentralised EU agencies, the Budgets Committee which co-decided on their budgets and wanted maximum value for money, the Budgetary Control which had to sign off on the way they spent their money and the Constitutional Affairs Committee which was interested in the wider institutional implications of these agencies and which often sought to have a more uniform framework for EP relations with these agencies.

In addition to these differing perspectives within the European Parliament, there were also wider institutional considerations. The European Commission clearly had particularly close relations with these agencies. On the other hand some of the agencies sought to have greater autonomy from the Commission and in certain cases of which I was directly aware sought to encourage the EP to develop a closer role with them in order to provide them with a wider freedom of manoeuvre.

As a result of all these factors, several attempts were made at inter-institutional level to provide for a more coherent

overall framework for the work of these agencies. An inter-institutional working group was set up in 2009 and in July 2012 agreement was reached on a ' Statement of the European Parliament, the Council of the EU and the European Commission on Decentralized Agencies'. The extent to which it will lead to more codified practice in reality and in the longer term is still very much a moot question.

The REACH Regulation, an illustration of the complexity of EU inter-institutional relations.

Of all the EU legislation with which I was involved during my EP career, one of the most controversial and time-consuming was the Regulation on the , Evaluation, Authorisation and Restriction of Chemicals, adopted in December 2006 and familiarly known as REACH. This entailed a complex interplay between many different interest groups and governments (at least one of which even tried to influence the committee attribution of the draft legislation within the EP) and literally thousands of amendments in the EP committees and in the plenary. A fascinating feature, however, was that the drawn out contest was not so much between individual EU institutions as between inter-institutional coalitions. The EP Environment Committee where I was working was informally allied with the Environment DG in the Commission and with the Environment Council against the EP Industry and Internal Market Committees and their Commission and Council counterparts. Fortunately a compromise package was finally agreed upon.

This leads me to an additional observation on wider inter-institutional relations in the EU legislative sphere. The EP and the Commission have indeed often been allies in specific cases, but many other configurations have been experienced, including many cases where the EP and Council have made common cause against the Commission. This whole topic deserves much deeper study.

The elections paradox: Lower turnout in EP elections as EP gained in powers

In the course of my career in the European Parliament I witnessed every election from the first one in 1979 to those in 2014, on one occasion as an actual participant (as a candidate in 1984) and on all the others as a very interested observer. In each of these elections turnout declined, from an average figure of 62 per cent in 1979 to only 42.6 per cent in 2014. All this time there almost seemed to be an inverse relationship between turnout and EP powers, with the former continuing to decline as the European Parliament became more and more powerful.

This is not the place for an in depth analysis of why this may have occurred. The generally high turnout in the first elections in 1979 (apart from in the UK and to a lesser extent Denmark) clearly owed a lot to their novelty value whereas there was less interest when they became regular events every five years. In the more recent sets of elections, EU enlargement and generally very low turnouts in the new EU Member States from Central and Eastern Europe (only 13 per cent in Slovakia in 2014) clearly pulled down the average turnout in the EU as a whole.

Probably the most important reason, however, is that the European elections were seen as second order national elections, with relatively little at stake apart from punishing (or more rarely rewarding) national governments and with minimal media or public interest in what was happening in other EU countries. The elections were not even taking place on the

same day but over a four day period to take account of differences in traditional voting days in individual EU countries (notably Thursday in the UK and the Netherlands) but even this probably had little impact on turnout.

I witnessed this first-hand in 1984 when there was little interest in the result in the constituency in which I was a candidate, let alone nationally or elsewhere in Europe. There was very little understanding of the role and powers of the European Parliament, nor of the significance of MEPs, and this was further reinforced by the very frequent disconnect between MEPs and their national parties and national governing structures. I recently took part in the Collecting Memories oral history project (with interviews with former MEPs now housed at the Historical Archives of the European Union in Florence) and this lack of connection between the European and national level was emphasised by many of the interviewees.

On the other hand I can finish this section on a more positive note. The 2019 European Parliament elections were very encouraging, in that there was a great increase in turnout from 42.3 per cent to 50.6 per cent at Europe-wide level, with turnout increasing in 19 EU Member States and with a marked increase in voting by younger Europeans. Again the reasons for this require deeper analysis but issues like climate change, reactions to the rise of populist parties in many EU countries, more effective social media campaigns and even an increased awareness of the value of the European Union in the aftermath of Brexit, probably all played a role. It will be interesting to see whether this very positive trend will be confirmed in the 2024 and subsequent EP elections.

Candidate selection and its implications for the European Parliament

In the course of my EP career I worked with a large number of MEPs of all parties and nationalities and was very struck by the different processes by which they had been selected as candidates and the implications that this often had for their subsequent work as MEPs. In larger countries there was more scope for lengthy slates of candidates, especially for the largest parties, giving the latter more scope to seek gender and age balance and a mix between experienced and/or well known incumbents or other politicians and new faces, as well as to recruit policy specialists. For smaller countries this was simply not an option.

National electoral systems also often played a role, with some having a strong preferential element whereby voters could promote candidates up the list or else using closed lists where voters could not change the order of candidates decided upon by the national party. Sometimes this was by party members but very often by a handful of party bosses. I remember working with one MEP who told me that he was on a safe place on the list but was displaced by a regional party baron only around three or four weeks before the poll.

I was also struck, however, by the different attitudes towards incumbency and EP experience, with Germany and the UK, for example, often having many very long-serving MEPs whereas countries such as France or Italy tended to have massive turnovers every five years, often with a consequent reduction in effectiveness within the European Parliament. Moreover, if MEPs felt that their time in the EP was a short interregnum before returning to national politics, they were often less motivated within the Parliament. Over time, however, this gradually changed with

more and more politicians seeking to make or consolidate their reputation within the European Parliament, sometimes because they saw their work in the EP as a career choice in its own right and sometimes because they saw it as reinforcing their political career back home.

The EU and citizens

Another broad theme, which is beyond the scope of this insight, is that of the evolving relations between the EU and its citizens, from the early days of a top down and even secretive approach to decision-making (very few politicians, let alone the public, were consulted on the Schuman Declaration!) up to the present day, when this is no longer acceptable. I witnessed a number of important developments in this regard, including the practice of open rather than closed EP committee meetings (in most cases decided upon right after the first direct elections and at a time when most national parliamentary committee meetings were closed) and the gradually increased emphasis on open access to documents.

I spent my last few working years in the EP on Communications issues as head of the EP office in Ireland and saw at first hand the compelling need for the EP (and EU) to communicate better on what they do and how this can best be done through education and the media, without seeming to constitute propaganda.

I also experienced a number of referendums on EU-related matters, including two in Ireland on the Lisbon Treaty, and saw the difficulties in communicating a Treaty with few big mobilising ideas and with lots of much smaller incremental measures. How will this evolve in the case of future EU Treaty reform? Might there be EU wide referendums or, less ambitiously, but perhaps more realistically, coordinated national referendums on a single day?

Being based in Ireland in the last years of my EP career and since retirement, I have also developed a particular interest in the possible contribution of participative democracy, not as a substitute for, but as a complement to representative democracy at national and European level. I also witnessed at first hand the strengths and weaknesses of the participative democracy element of the Conference on the Future of Europe at a meeting in Dublin Castle in Ireland in March of this year. I am fully aware of the difficulties that greater use of this instrument will pose, particularly in much larger polities than Ireland. I am also convinced, however, of the case for greater involvement of citizens in EU decision–making in the future and for the compelling need to reach out beyond the usual suspects.

Final observations:

I would like to conclude with a few brief observations, primarily concerning the increase in the European Parliament's legislative and other powers during the years in which I worked there and the changing balance between the institutions that this has implied.

Firstly, formal increases in EP powers through successive EU Treaty changes have been important, but changes through Inter Institutional Agreements (IIAs), and through even more informal developments have also been very significant. These have not only implemented EU Treaty changes but have often extended their scope as well. Similarly changes in the EP Rules of Procedure have entailed not just codification of new Treaty provisions but have also sought to consolidate EP powers as well, as pointed out below. Moreover, EP experience on single market-related and other legislative matters in the early 1980s

has shown that quite a lot was achieved even in the absence of EU Treaty reform.

Related to this has been whether the EP has prioritised an increase of its powers over maximising its use of its new powers. It is not easy to draw conclusions on this point. It is certainly less time-consuming and requires less technical knowledge to push for new powers than to get involved in some of the minutiae of policy making, such as in the area of secondary legislation that I mentioned above. In spite of this there have always been MEPs and interested staff members who have delved into these details and have influenced the legislative and other work of the Parliament (such as an MEP from a smaller group and from a very small Member State who was respected across the political divide on the details of energy policy and a Green Group staff member who became highly influential on the details of implementing and delegated legislation and drew the attention of members to potential problems on these matters).

What is clear, however, is that the period of rapid extension of the European Parliament's formal powers is probably over, and that the emphasis will have to shift even further towards deeper implementation of its existing powers and maximising its influence in other ways.

A second observation relates to the importance of shared objectives and entrepreneurial spirit among both MEPs and EP staff in the pioneering days of the directly elected Parliament, not least in developing powers going beyond those in most European national parliaments, notably by carving out a real role on EP appointment and in initiating confirmation hearings, but also in other areas such as in seeking real scrutiny of secondary as well as primary EU legislation. This was clearly helped by the lack of a settled EU constitutional framework and by the constant changes in EU and in EP powers. The extent to which this will continue to be the case in the future is, however, unclear.

A third point relates to the European Parliament's Rules of Procedure which have been mentioned several times in this insight. Within the Parliament they have fulfilled more than one purpose. They have, of course, transposed the new powers gained by the Parliament in successive Treaties and through Inter-institutional Agreements and other means but not always in a mechanistic way, such as in the case of the Prout report's adaptations after the Single European Act. They have also reflected changing EP practice as well as seeking to implement EP institutional initiatives of a less formal nature, such as the introduction of confirmation hearings for Commissioners, an idea which was not included in any Treaty In some of these cases the Rules of Procedure have been used to extend Parliament's powers but, as we have seen in the case of the Prout-inspired rules, have sometimes also sought to introduce new constraints on the Parliament to show that it sought to be a responsible legislator.

An issue I will not tackle in this insight is on the extent of national influence on the Rules of Procedure of the European Parliament and indeed on its wider methods of working. It is often pointed out that French parliamentary procedure was the most influential in the early days of the Parliament and that the arrival of British MEPs was later reflected in such innovations as Question Time in Plenary. The extent to which other parliamentary traditions have been reflected in the workings of the European Parliament deserves further study in the future.

A last point to emphasise concerns the changing EU institutional balance. During

my career the EP became a much more powerful member of the institutional triangle, and has gained far more respect and attention from the Commission and the Council. On the other hand the extent of this still varies considerably between different policy areas, not least in certain recent EU crises when decision-making has tended to reflect the EU leader dominated Union Method rather than the more traditional Community Method where the EU has direct co-decision powers. Finally, the nature of Commission, EP, Council relations is often more complex than it might initially seem, with no permanent alliances and sometimes with inter-institutional coalitions, as in the case of REACH.

An afterword

As I have tried to show in my insight, I was fortunate enough to work in many different parts of the EP. In the course of my career I not only worked in many EP as well as in Commission and Council buildings but also visited many EU agencies. I also became more and more interested in the history of European integration, in the places where its main events had occurred and, perhaps above all, in the remarkable people who had made it all happen.

As a result of all this, I came up with the idea of a guide to the landmark sites of European integration, looking at the EU places of work, the main places of EU memory and the main personalities who created and then helped to develop the structures of European integration and to further its ideals and objectives. This guide was published in May of 2022 and for those who are interested, I enclose a link to the publisher's publicity material, which can be found here.

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