

The European Parliament – More powerful, less legitimate? An outlook for the 7th term

CEPS Working Document No. 314/May 2009

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Abstract

At the end of the 6th legislature, fears that enlargement would hamper the workings of the European Parliament have largely proved unfounded. Despite the influx of a large number of new members to Parliament, parties have remained cohesive, and legislative output has remained steady. Moreover, after an initial phase of adaptation, MEPs from new member states have been increasingly socialised into the EP structure. Challenges have arisen in a rather different field, however. In order to remain efficient in the face of increasing complexity, the EP has had to streamline its working procedures, moving more decisions to parliamentary committees and cutting down time for debate. This paper argues that measures to increase the efficiency of the EP, most notably the trend towards speeding up agreements with the Council (1st reading agreements) run the risk of undermining the EP's role as a forum of debate. Should bureaucratisation increasingly trump politicisation, the legitimacy of the EP will be undermined, and voters will become ever more alienated from its work. For the 7th legislature of the European Parliament therefore, it is crucial to balance efficiency of output with a more politicised policy style that is able to capture public interest.

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ISBN 978-92-9079-886-6

Available for free downloading from the CEPS website (<http://www.ceps.eu>)

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THE EUROPEAN PARLIAMENT – MORE POWERFUL, LESS LEGITIMATE?

AN OUTLOOK FOR THE 7TH TERM

CEPS WORKING DOCUMENT NO. 314/MAY 2009

JULIA DE CLERCK-SACHSSE AND PIOTR MACIEJ KACZYŃSKI*

Introduction

With the European Parliament (EP) elections just around the corner, this CEPS Working Document analyses the performance and institutional developments of the outgoing Parliament with a view to the implications this will have for the 7th EU legislature.¹ Two issues are of major concern in this context: how the European Parliament is coping with the ‘big bang’ enlargement of 2004 and with the smaller one in 2007, and how the reforms envisaged in the Lisbon Treaty will affect its performance and legitimacy.

Since 2004 the European Union has enlarged to include twelve new countries; raising concerns about the continued decision-making capacity of the EU institutions. However, in line with findings on the other two EU institutions, the Council of Ministers (the Council) and the European Commission (the Commission), these concerns have proved to be largely unfounded.² Preliminary assessments of how the EP adapted to the enlargement of the Union have been, for the most part, positive. Indeed the EP has remained remarkably efficient, as both its legislative and non-legislative output have remained steady. Moreover, fears that the influx of a large group of new members from different domestic political cultures would upset the internal balance of the parliament have not materialised. Political groups seem to have remained largely cohesive.

Challenges to the last legislature have arisen in rather different and unexpected ways, however. The enlargement, but mostly the growing legislative powers of the EP in successive treaty reforms, has made the work of the Parliament ever more intricate. Upholding the efficiency of the EP in the face of increasing complexity and size has come at a price. In order to ensure continued ‘output’, more and more decisions are now taken at the level of EP committees rather than being debated in plenary. Decisions are increasingly taken after only one reading in the Parliament, leaving little time for debate and scrutiny. As the EP evolves as an ever more assertive political actor, this is a somewhat paradoxical development. On the one hand, as the

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¹ The authors would like to thank Sebastian Kurpas for his input in outlining this research project, while still in his capacity as head of the Politics and Institutions section at CEPS. They would also like to thank Mike Beke, Jan Ulrich and Jirka Stepan for invaluable research assistance. This study is based on quantitative and qualitative data gathered during 34 interviews with MEPs, EP officials as well as officials from other EU institutions and outside observers. For more information on the methodology, see Annex 2.

² See, inter alia *Old Rules, New Game: Decision-making in the Council of Ministers after the 2004 Enlargement*, Sara Hagemann and Julia De Clerck-Sachsse, CEPS Special Report, 2007 and *The European Commission after Enlargement: Does more add up to less?*, Sebastian Kurpas, Caroline Grøn and Piotr Maciej Kaczyński, CEPS Special Report, 2008.

EP acquires more powers it starts to take on the characteristics of ‘normal’ national parliament as regards party cohesion and coalition formation. On the other hand, the pressures of efficiency have also led to a bureaucratisation of procedures (reduced speaking time in plenary and shifting more of the workload to the parliamentary committees, for example). All this undermines politicisation.

The increasing bureaucratisation of the EP seen under the last legislature might seem necessary to allow the EP to operate efficiently and react swiftly to important policy events. But this paper argues that these developments could undermine the EP’s role as a public forum and a centre for debate. Especially in times of scepticism about further EU integration and growing voter apathy about the European elections, this development could be detrimental to the Parliament and to European integration in the long run.

1. The European Parliament and the 2004 and 2007 enlargements

1.1 Institutional adaptation

Recent studies on voting behaviour in the EP argue that initial fears about the influx of a large number of new members upsetting the internal functioning of the EP did not materialise.³ One of the concerns was that enlargement would lead to a re-nationalisation of voting because these countries would vote *en bloc*. Yet, the EP party system appears to have remained surprisingly steady, even after enlargement, as party cohesion and coalition formation along ideological rather than national lines are increasingly common, despite the increasing diversity of the political positions represented within the chamber.⁴ Moreover, while cohesion rates vary according to different policy fields, the cohesion in committees where MEPs from new member states were proportionally overrepresented (Budget, Constitutional Affairs, Culture and Education, Foreign Affairs, Juridical Affairs, and Regional Development) were no lower than average.

This is surprising for two reasons. First, with enlargement the diversity of the political landscape increased considerably. This is true not only in purely numerical terms but also with regard to political cultures and norms, given that many of the new member states share a common communist legacy. Moreover, the majority of new member states are newly independent countries,⁵ all of which were among the Union’s poorest nations at the moment of accession. Second, the integration of the new national delegations is startling because political groups in the EP are generally seen as weaker than national ones. For example the European groups do not control electoral lists or therefore the re-election of their members.⁶ Nevertheless they have been increasingly successful in socialising MEPs into their structures.

Yet, analyses about voting behaviour underlie a certain caveat. Given that the party structures in these countries are still seen as being very much in flux, voting behaviour may still undergo considerable change.⁷ Moreover, cohesion scores in most recent research is based on roll call votes (RCV). RCV, however, need to be specifically requested, and only account only for about one third of votes in the EP. Moreover, it has been argued that RCV are usually not called on

³ Hix et al. (2007); Kreppel and Gungor (2006); Schmitt and Thomassen (2005)

⁴ Schmitt and Thomassen (2005); Hix and Noury (2009)

⁵ From 10 Central Eastern countries only Bulgaria, Hungary, Poland and Romania have had a continuous state structure since 1989. Malta and Cyprus are also former colonies of the United Kingdom and regained their independence in the 1960s.

⁶ Kreppel and Gungor, (2006); Corbett et al. (2007)

⁷ Schmitt and Thomassen (2005)

the most important policy issues, which can be assumed to be the most divisive.⁸ What is more, RCV are often used strategically to enhance party cohesion among members (as they are often called by a group in order to monitor the voting of its members), or to signal the party's position towards another group. In both events this would suggest that by nature RCV are biased towards greater cohesion.

Table 1. European party groups' cohesion rates – European Parliament 2004-09

| Policy Area | EPP-ED | PES | ALDE | UEN | Greens/EFA | GUE-NGL | IND-DEM | NI |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|------------|
| Overall cohesion rates | 0.85 | 0.88 | 0.86 | 0.72 | 0.9 | 0.82 | 0.41 | 0.4 |
| Agriculture | 0.77 | 0.78 | 0.81 | 0.76 | 0.86 | 0.7 | 0.31 | 0.5 |
| Budget | 0.86 | 0.92 | 0.89 | 0.73 | 0.93 | 0.8 | 0.49 | 0.4 |
| Budgetary control | 0.83 | 0.93 | 0.93 | 0.8 | 0.95 | 0.82 | 0.43 | 0.2 |
| Civil liberties, justice & home affairs | 0.82 | 0.93 | 0.87 | 0.71 | 0.91 | 0.84 | 0.42 | 0.5 |
| Constitutional and inter-institutional affairs | 0.84 | 0.84 | 0.87 | 0.6 | 0.85 | 0.73 | 0.53 | 0.4 |
| Culture and Education | 0.84 | 0.92 | 0.91 | 0.71 | 0.9 | 0.7 | 0.5 | 0.4 |
| Development | 0.83 | 0.99 | 0.96 | 0.82 | 0.95 | 0.93 | 0.4 | 0.5 |
| Economics | 0.88 | 0.85 | 0.89 | 0.69 | 0.88 | 0.76 | 0.49 | 0.4 |
| Employment & social affairs | 0.82 | 0.9 | 0.82 | 0.71 | 0.89 | 0.89 | 0.41 | 0.3 |
| Environment & public health | 0.85 | 0.88 | 0.84 | 0.72 | 0.93 | 0.91 | 0.34 | 0.4 |
| Fisheries | 0.88 | 0.86 | 0.77 | 0.74 | 0.86 | 0.69 | 0.38 | 0.5 |
| Foreign Affairs | 0.86 | 0.89 | 0.86 | 0.7 | 0.89 | 0.8 | 0.46 | 0.4 |
| Gender equality | 0.79 | 0.97 | 0.85 | 0.67 | 0.92 | 0.91 | 0.38 | 0.4 |
| Industry, research & energy | 0.87 | 0.88 | 0.83 | 0.75 | 0.9 | 0.71 | 0.35 | 0.4 |
| Internal market & consumer protection | 0.87 | 0.85 | 0.75 | 0.68 | 0.94 | 0.93 | 0.36 | 0.3 |
| Internal regulations of the EP | 0.66 | 0.7 | 0.63 | 0.47 | 0.68 | 0.37 | 0.31 | 0.4 |
| International trade | 0.95 | 0.9 | 0.94 | 0.86 | 0.89 | 0.92 | 0.33 | 0.4 |
| Juridical affairs | 0.91 | 0.9 | 0.89 | 0.81 | 0.94 | 0.85 | 0.33 | 0.4 |
| Petitions | 0.84 | 0.92 | 0.86 | 0.77 | 0.93 | 0.9 | 0.53 | 0.5 |
| Regional Development | 0.87 | 0.9 | 0.91 | 0.72 | 0.9 | 0.82 | 0.43 | 0.4 |
| Transport & tourism | 0.85 | 0.85 | 0.88 | 0.77 | 0.89 | 0.87 | 0.38 | 0.4 |

Source: http://www.votewatch.eu/cx_european_party_groups.php Cohesion measures the extent to which the members of a European party group vote as a block or not. The scale is between 0 and 1; the closer the score to 1, the more cohesive a European group is.

This does not mean, however, that the MEPs from new member states have had no impact on the EP at all. In certain policy fields they have added a different emphasis, most notably perhaps in their more sceptical attitude towards Russian foreign policy, and generally they adopt a more economically liberal stance in the field of market regulation and social policy, irrespective of party allegiance. As a result, on certain issues, cohesion may have suffered, or in any case has been much harder to achieve.⁹ A prominent example is the controversial Services Directive, where a clear divide between old and new member states could be seen. Overall, it seems that

⁸ Carruba et al. (2004)

⁹ These arguments were raised by many of the MEPs and civil servants in interviews conducted by the authors (Brussels, March – May 2009).

the EP was able to accommodate the increasing diversity of positions with longer discussions and the setting up of new structures such as working groups to discuss controversial policy questions. Many of the interviews conducted for this paper also showed that members increasingly resorted to informal meetings to address contested issues before they came up for vote. This, however, raises questions about the quality of the resulting legislation. The need for compromise, including an ever-greater variety of positions, has led to longer and more technical legislation.¹⁰ This trend seems to contravene the need to make EU policies more accessible, as well as making it harder to politicise them.

Another change that could be observed during the last term is that as a result of the influx of new members, the balance of groups represented in the EP has shifted towards more the conservative parties. Both the EPP-ED and UEN gained as a result of the enlargement. This development is reinforced by the voting behaviour of the ALDE group, which voted more often with the EPP-ED group than with the socialists in the last term, as opposed to having gone along with the socialist PES more often previously.¹¹ However, the argument that the EP is becoming more like a national parliament that votes along a left-right spectrum, rather than operating along consensual lines needs to be viewed with some caution. On many questions, especially where the EP sees its position as relatively weak vis-à-vis the Council and where institutional matters are concerned, the two or even three big parties still vote together. The trend towards an emerging left-right spectrum on some policy questions is therefore counter-balanced by the continuing tendency of the EP to present itself as a unitary actor vis-à-vis the other EU institutions and in other fields. If the largest three parties lose votes in the next elections, as is currently predicted, this could reinforce the impetus towards a grand coalition between the most powerful parties and further undercut politicisation.

1.2 Integrating the new members

Generally speaking, integrating the new members has been much less of a challenge than originally feared. In the first term of the 6th legislature new members were rather underrepresented in the key offices such as the Bureau (14%), the Conference of Presidents (9%), and the Conference of Committee Chairmen (17%). Since 2007 new member states' MEPs constitute 27% of the Parliament (or, 215 out of 785 MEPs). They had to learn the political game of the institution without much guidance from their political families. This is probably why they were not placed at the centre of the Parliament's decision-making powers, but remained largely underrepresented during the first term of the 6th legislature. Most strikingly, throughout the term they were seriously underrepresented among the committee coordinators among the largest three political groups. Among the EPP-ED and PES committee coordinators, only one MEP from each group comes from a new member state (Ms. Edit Bauer coordinates the EPP-ED in the Women's Rights and Gender Equality Committee and Ms. Alexandra Dobolyi coordinates the PES in the Petitions Committee). In the ALDE group not a single coordinator came from a new member state. In contrast, there were three MEPs/coordinators in the EPP-ED and PES group, each elected for the first time in 2004 from older members, and nine in ALDE.

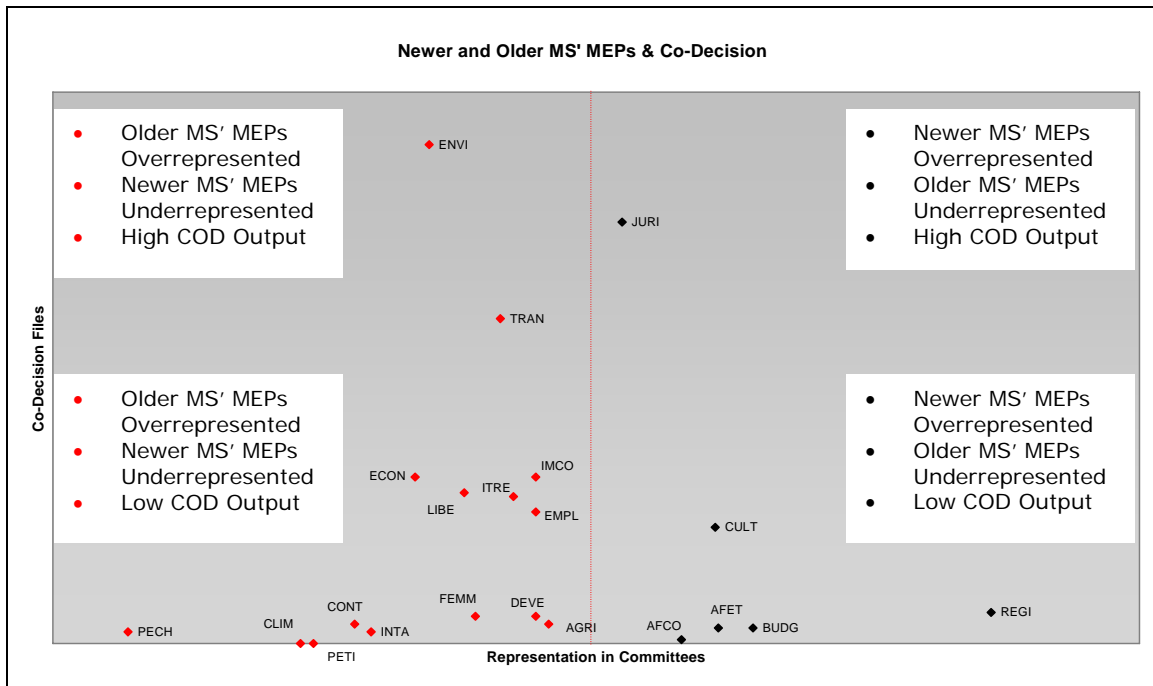
Moreover, the new member states' MEPs did not sit in the committees, which have major legislative output (measured as amount of co-decision files, see Figure 1 below). From the parliamentary committees that deal with the co-decision files they have been well-represented only in the horizontal Legal Affairs (JURI). In the most relevant policy committees, the

¹⁰ Maurer (2008)

¹¹ Hix and Noury (2007)

Environmental (ENVI) and Transport (TRAN) Committee they were already underrepresented. As already demonstrated, the newer member states' MEPs were mostly concentrated in non-legislative committees, such as Regional Policy (REGI), Budget (BUDG), Foreign Affairs (AFET), Culture and Education (CULT) and Constitutional Affairs (AFCO).

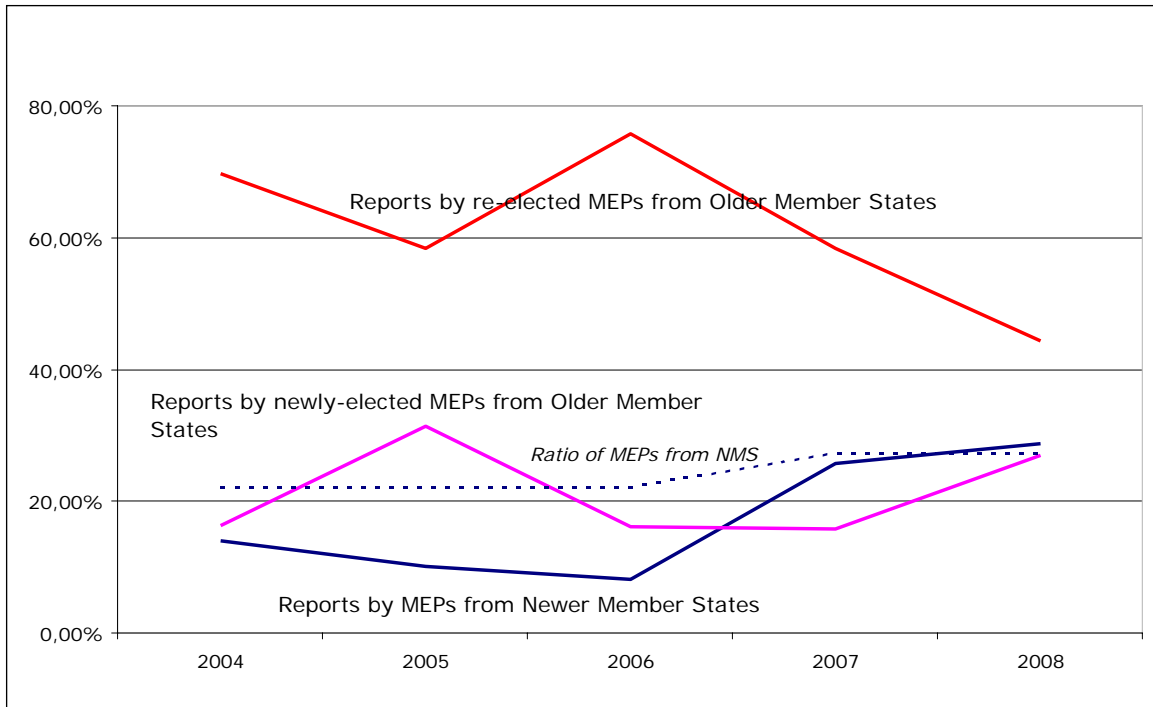
Figure 1. Map of the EP's Committees by Co-Decision (COD) files and newer MS' MEP membership



Source: Own calculations based on data from the European Parliament's website.

In the course of the first term, members underwent a considerable learning process, integrating themselves more and more into the political structures of the EP and increasingly gaining key offices. In the second term, for example, two of the leading committees went to chairs from new member states (Mr. Jacek Saryusz-Wolski in the Foreign Affairs Committee and Mr. Miroslav Ouzký in the Environment, Public Health and Food Safety). A similar development can also be seen in the case of rapporteurships. At first the parliamentarians from newer member states were not granted many co-decision files as rapporteurs. Yet since the mid-term (2007) the amount of reports prepared by those MEPs has been stable and corresponds to the share of their participation level in the chamber (27%; see Figure 2 below).

Figure 2. Ratio of co-decision reports written by category of MEPs



Source: Own calculations based on data from the European Parliament's website.

2. An increasingly assertive legislature

2.1 The EP's use of its increasing powers during the 6th legislature

Rather than institutional paralysis, an increasingly assertive legislature could be noted during the 6th term. The EP is the most dynamic and evolving of European institutions; *change* is therefore built in to its functioning. This does not only apply to the EP's adaptation to enlargement, but also to institutional developments, both internally and as part of the EPs place in the triangle of EU institutions between the Council and the Commission. Indeed the Parliament's powers have been increased greatly over past decades. In particular, the Treaty of Maastricht (1993) which established the co-decision procedure placing the Council and the Parliament on a par as co-legislators set in motion an expansion of the EP's legislative capacities, a change to which the EP is still adapting today.¹²

There are two main ways to expand Parliament's powers in the decision-making system of the European Union. Firstly, there are treaty changes. Since the Single European Act (SEA) in 1987 all European treaties have granted new powers or extended those already possessed by the Parliament. Most decisive perhaps were the changes of the Maastricht Treaty; since then each of the amending treaties has expanded the application of co-decision to new areas. The Lisbon Treaty would constitute yet another breakthrough as it expands the application of co-decision to numerous new areas and re-names it the "ordinary legislative procedure".

¹² For more on the history of Parliament's power extension, see Priestley (2008).

The European Parliament's legislative powers

According to the current treaties there are four legislative procedures in the Union. One of them (coordination) is only very rarely used (there was only one initiative using the cooperation procedure since 1999), therefore the focus is on three remaining procedures:

- (1) Consultation Procedure;
- (2) Assent Procedure;
- (3) Co-Decision Procedure.

Beyond these there are also certain policy fields in which the treaties do not foresee any role for the European Parliament. This applies for example to trade policy (article 133 TEC) or in some cases when the freedom of establishment is concerned (exclusion of certain activities, article 45 TEC), some elements of the movement of capital (articles 57(2) and 60 TEC), some elements of approximation of laws (article 96 TEC), and others.¹³

The role of the European Parliament varies in each of the procedures outlined above. In the **co-decision procedure**,¹⁴ the Council and the Parliament co-decide as equal partners (the Parliament in two readings) and each institution has a veto power (in the Conciliation Committee, which for the EP is the equivalent of a third reading). The full procedure is used rarely; an example is the Working Time Directive, which failed in the Conciliation Committee in April 2009.¹⁵ In the **assent procedure**, the Parliament cannot propose amendments, but still can reject proposals. In the cooperation procedure the Parliament's opposition can be overridden by the Council's unanimous decision (though it can propose amendments and there are two readings). In the **consultation procedure** the role of the Parliament is marginal as its position can be completely disregarded by the Council of Ministers.

A second way of extending Parliament's powers is through amending the existing secondary legislation, by changing the procedural rules. For example the 2006 comitology reform has strengthened the Parliament's position in the implementation of the Community laws. 'Comitology' is a process of adopting measures to implement legislative acts. In this process measures are adopted by the Commission, assisted by a committee of experts from the member states.¹⁶ The 2006 reform provided the Parliament with scrutiny powers for the first time in cases where a committee takes implementing decisions on the basis of an act adopted under the co-decision procedure. Namely the reform established a new type of committee – the Regulatory Committees with Scrutiny, where the Parliament has a clear oversight (together with the Council).¹⁷ This reform was a significant extension of Parliament's powers in comitology and one of the very few examples (during the 2004-09 term) of where the increase of powers of the EP was formalised.

The only formal acquisition of co-decision powers during the 6th legislature took place in 2005 after the Council decided unanimously to shift four legal bases from the third pillar to the co-

¹³ All the examples given would be moved to co-decision under the Lisbon Treaty; therefore enhancing the European Parliament's role in legislative terms. See Corbett et al. (2007), p. 222.

¹⁴ For more information on co-decision, see http://ec.europa.eu/codecision/procedure/index_en.htm and in Annex 3.

¹⁵ See i.e. "Blame game starts as Working Time talks collapse", Euractiv, 28 April 2009.

¹⁶ Definition of the European Parliament (http://www.europarl.europa.eu/igc1996/fiches/fiche21_en.htm).

¹⁷ On the comitology reform, see for example, Christiansen and Vaccari (2006).

decision procedure. The four new legal bases subject to co-decision are border controls, asylum measures, receiving refugees and handling illegal immigration.¹⁸

The political importance of the Parliament in the selection process of the new European Commission has been recognised ever since the Santer Commission stepped down in 1999 ahead of the Parliamentary vote on the motion to censure the Commission. During the 6th Legislature, the Parliament again used its rights and forced the Commission President and the Italian Government to change the initial Italian Commissioner after Mr. Buttiglione failed to gain the approval of the Civil Liberties, Justice and Home Affairs Committee. Moreover, the Hungarian Commissioner Mr. Kovacs had to be given a different portfolio after failing to gain the Parliament's support to become Energy Commissioner. An example of the stronger role of the Parliament in the legislative process was the adoption of the Services Directive. Here, the initial deadlock in the Council gave the Parliament room for manoeuvre in negotiating an acceptable compromise and establishing itself more strongly as an equal co-legislator.

During the 6th term of the EP there were also attempts by the Parliament to extend its budgetary control over other institutions. The Parliament has a long history of claiming more powers through budgetary means.¹⁹ During the last term this was no different. For example there is a pending issue between the Parliament and the Council General Secretariat on the Council's accounts for 2007. In April 2009 the Parliament postponed approval of the Council's records until further clarifications were provided. In a similar situation in 1999, the Parliament's rejection of the Commission's accounts led to the collective decommissioning of the entire College.²⁰

While the budgetary and scrutiny powers of the EP are important,²¹ the most important development for the EP's increasing assertiveness has come through the successive extension of its legislative capacity. Ever since the introduction of the co-decision procedure in 1993, there has been a gradual increase of co-decision files with each Parliament's term. Over the past fifteen years the number of files with the co-decision method of decision-making grew by 84%.²²

Moreover, by the end of the 6th term for the first time there were more co-decision files put forward for the Parliament to address than consultation files (see Figure 3 below). This development was an indirect consequence of the shifting focus of the European Commission (which has the sole legislative initiative). In the last term the political and legislative activity of the Union evolved more and more towards co-decision-oriented topics, such as justice and home affairs, the internal market, environment, transport, etc.²³

¹⁸ See Presidency Conclusions, European Council (2004), Corbett et al. (2007).

¹⁹ Priestley (2008)

²⁰ Pop (2009)

²¹ European Parliament's own overview of its powers is available at <http://www.europarl.europa.eu/parliament/public/staticDisplay.do?language=EN&id=46>.

²² Legislative Observatory of the European Parliament data (<http://www.europarl.europa.eu/oeil/>).

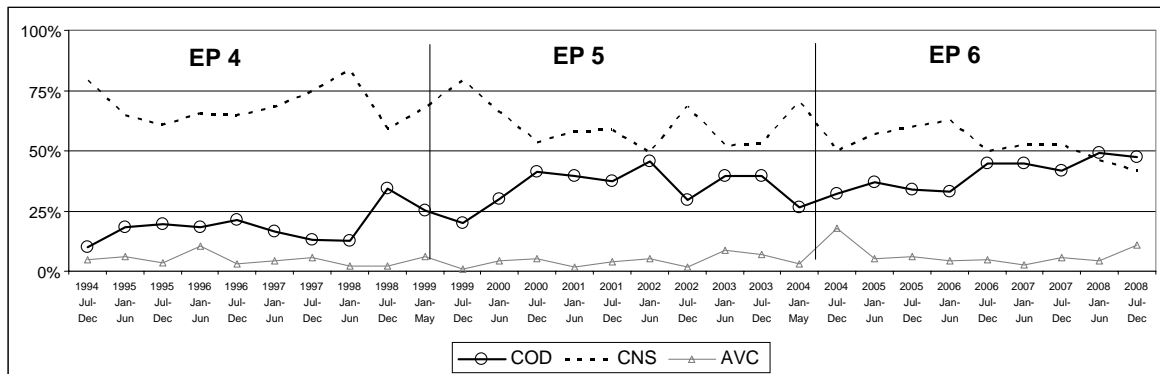
²³ For more on the shifting policy focus of the European Commission, see Sebastian Kurpas, Caroline Grøn and Piotr Maciej Kaczyński, *The European Commission after Enlargement: Does more add up to less?*, CEPS Special Report, Brussels 2008 (http://shop.ceps.eu/BookDetail.php?item_id=1620).

Table 2. Use of decision-making procedures in the European Parliament 1994-2009

| | Co-Decision | | Assent | | Consultation | | Cooperation | |
|-------------------|-------------|-------|---------|-------|--------------|-------|-------------|-------|
| | Reports | Share | Reports | Share | Reports | Share | Reports | Share |
| EP 4 1994-1999 | 261 | 18,4% | 71 | 5,0% | 978 | 68,9% | 109 | 8,3% |
| EP 5 1999-2004 | 446 | 35,6% | 54 | 4,3% | 752 | 60,1% | 0 | 0,0% |
| EP 6 2004-2009 | 479 | 40,2% | 77 | 6,5% | 635 | 53,3% | 1 | 0,1% |

Source: Own calculations on the basis of EP Legislative Observatory.

Figure 3. Use of procedures in the European Parliament: Co-decision (COD), Consultation (CNS) and Assent (AVC)



Source: Own calculations on the basis of EP Legislative Observatory.

However the constant increase in parliamentary powers needs to be seen in a wider context. To date, the balance of power in the decision-making system of the European Union still remains tilted towards the Council of Ministers. Indeed, this disproportion of powers between the two European legislators has been the central argument in the debate about the Union’s so called ‘democratic deficit’. The main argument of the Parliament in claiming more and more powers has always been that this institution provides for the Union’s democratic legitimacy, being the only EU institution that is directly elected. Strengthening the powers of the EP, so the argument goes, strengthens the EU’s democratic legitimacy.

2.2 Trends for the 7th legislature

If the Treaty of Lisbon enters into force during the 7th term of the European Parliament, it would constitute a major change in the balance between consultation and co-decision - regardless of the political and legislative activity of the European Commission. The Treaty expands the application of co-decision to areas such as agriculture and fisheries (with exclusions), intellectual property, energy, structural funds, immigration policy and others. It also grants the Parliament additional powers in areas where the EU did not have competences such as tourism, sport or the new instrument of a citizens’ initiative. It creates a new list of issues, to which the co-decision procedure may be further extended. This applies for example to elements of social policy, environmental protection or family law. Clearly, the Parliament’s powers would be extended significantly as a result. Nevertheless the Parliament’s legislative powers are still lesser than those of the Council, in areas where the consultation procedure applies and in those

few policies on which the Parliament is not consulted (i.e. issues related to the customs union and some aspects of economic policy).

Should the Treaty of Lisbon not enter into force, the further extension of the EP's powers will be halted. However, two developments could still help the chamber to flex its muscles. First, the new EP's scrutiny powers under the comitology procedure only began to be operational in 2008; therefore during the new term the Parliament will have more opportunities to exercise its newly acquired rights. Secondly, under the current treaties there are still possibilities to extend the application of co-decision to new areas, namely to legal immigration, rights of legal residents and certain social provisions. Additionally we might expect further attempts to extend Parliament's powers using the budgetary means (also in common foreign and security policy) or by revising its own rules of procedures.

Most certainly the 7th European Parliament will also try to influence the nominations for the new European Commission by invoking the powers that it would receive under the Treaty of Lisbon. A first attempt was already made with the parliamentary report on the impact of the Treaty of Lisbon on the development of the institutional balance of the European Union, where the Parliament called on the European Council to apply the provisions of the new treaty *informally* in 2009.²⁴ It is likely that in 2009 there will be yet another power struggle between the Parliament, the Commission President and the Council on the composition of the College of Commissioners. The 1999 and 2004 cases have proven the Parliament to be very successful at this game; a similar situation could be expected for 2009. Indeed, there are already signals from the Parliament that should Commissioner McCreevy seek reappointment, he might face difficulties in the chamber.

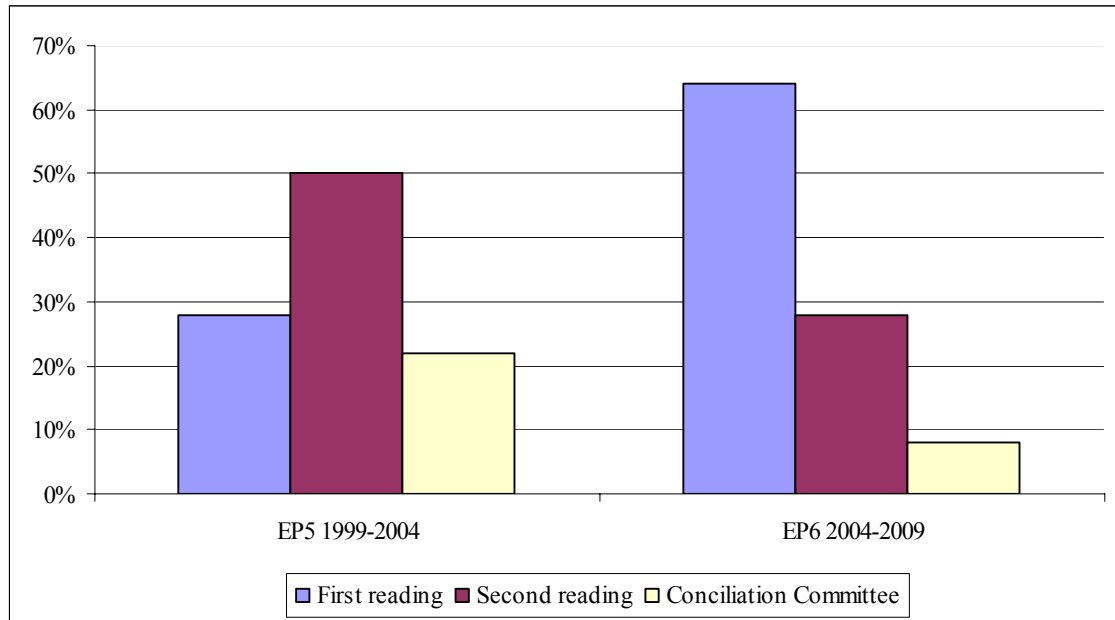
3. More powerful, less legitimate?

3.1 Streamlining the legislative procedure: efficiency, but at what price?

Apart from a gradual shift towards co-decision as the most common form of adopting new legislation, one of the most noticeable trends in EP decision-making in the last legislature was a huge increase in first reading agreements. Given that the process of several readings in the co-decision procedure is time-consuming and complex, there has been an increasing tendency to pass a legislative act after only one reading in the Parliament. The obvious advantage of fast-tracking the legislative procedure via first reading agreements is that this allows for proposals that are uncontroversial or where swift action is needed for a proposal to be passed without delay. A first reading agreement for example was crucial for a quick adoption of the energy and climate change package at the end of 2008, signalling the EU's capacity to act swiftly on important policy questions.

²⁴ See Report by Dehaene (2009), p. 43.

Figure 4. Agreements in co-decision according from the 5th to the 6th legislature of the European Parliament



Source: Working Party on Parliamentary Reform, Second Interim Report on Legislative Activities and Interinstitutional Relations, May 2008.

There are also a number of concerns raised by this process, however. The ability to agree upon a text after just one parliamentary reading means that much informal negotiation between the responsible committee and the Council is necessary. This means that only a limited number of actors (usually the rapporteur, one or two shadow rapporteurs and possibly the committee chair) are involved in the negotiations. Moreover, the bulk of the political debate takes place behind the closed doors of negotiating chambers rather than publicly. This informality necessarily limits the transparency of the procedure and leaves little room for political debate. The rise of first reading agreements also strengthens the role of the parliamentary committees as opposed to plenary in the legislative process. There are two reasons why this might be problematic. First, the composition of committees is not always representative of the entire chamber. Second, if plenary adopts a compromise that is pre-negotiated by the responsible committee there is little chance of a politicised and controversial debate. The latter, however, is crucial to capturing public attention.

Indeed, the sharp increase of first reading agreements (together with ‘early second reading agreements’), has been a matter of concern for the EP’s internal reform. Given that, taken together, early agreements now constitute around 80% of the files decided under co-decision, an internal working group has taken up the issue proposing to limit the use of first reading agreements to cases where they are clearly advantageous, such as in uncontroversial cases, highly technical matters, or matters of urgency. Moreover, the document also suggests ensuring that exploratory talks with the other EU institutions in so-called ‘trilogues’ do not go at the cost of transparency and plurality, by setting a clear mandate for negotiators by the committee and ensuring regular feedback by the rapporteurs to the committee.²⁵

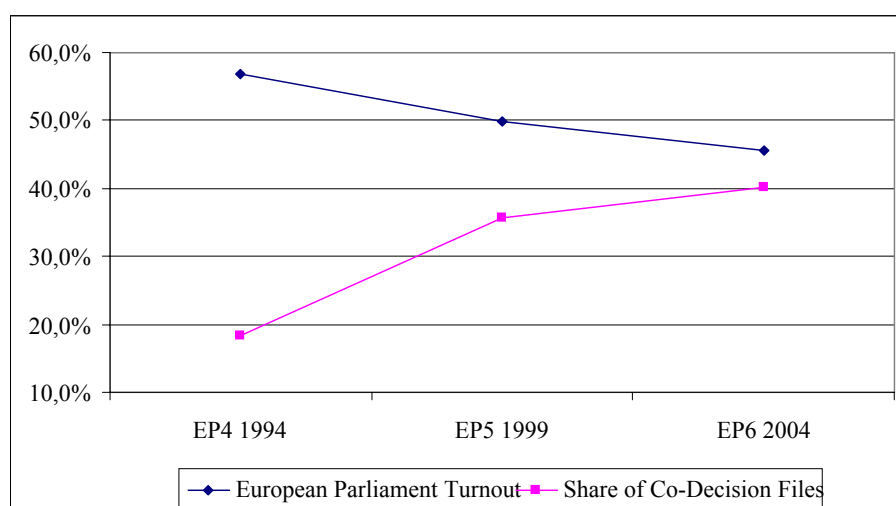
²⁵ Roth-Behrendt (2008), pp. 26-27

Apart from concerns about the transparency and legitimacy of the process there is also controversy over whether agreement early in the legislative process favours the position of the Council or the European Parliament. While some take the view that first reading agreements show an increasing willingness of the Council to take on Parliament's amendments, others argue that an agreement early on means the EP is merely rubber-stamping the Council's position. To be sure, the balance of interests is likely to differ from one legislative proposal to another. However, since early agreements necessitate compromise rather than controversial debate, they certainly replicate the working logic of the Council rather than that of the Parliament. In many ways the increasing use of first reading agreements exemplifies a trade-off between the efficiency of the EP as a legislator and its ability to serve as a forum for the emergence of different political positions. Institutional reform measures that reconsider the increased use of first reading agreements, as well as the issue of representativeness in committees are therefore to be welcomed.

3.2 Growing powers versus falling turnout: more powers do not equal more interest

One of the paradoxes facing the European Parliament is that its growing powers and assertiveness vis-à-vis the other EU institutions have not translated into growing public interest. The European Parliament is still the most widely trusted of the European institutions (51% of EU citizens trust the EP compared to 48% who trust the European Central Bank and 47% who trust the European Commission),²⁶ however, the rise in the EP's powers to act as a co-legislator of the Council has been mirrored by a decrease rather than an increase in voter interest (see Figure 5 below).

Figure 5. Turnout to EP elections and Share of Co-Decision Files



Source: European Parliament elections turnout: EP 2004 elections website <http://www.europarl.europa.eu/elections2004/ep-election/sites/en/index.html>; Co-Decision Files: own calculations based on European Parliament Legislative Observatory.

²⁶ Eurobarometer No. 70 (2009)

Some of the problems encountered by the EP in stimulating public interest are of a structural nature. European policy on the whole is rather difficult to politicise. The multilingual nature of the European Parliament, for example, reduces the capacity for a quick exchange of pertinent viewpoints, making debates in the Parliament less exciting and more difficult to follow.²⁷ Moreover, the fact that there is no clear divide between governing and opposition parties means that coalitions shift from policy issue to policy issue. While this allows political groups much more flexibility in deciding the position on a case-by-case basis it also makes it hard for outside observers to establish any clear patterns or positions. The fact that individual policy questions are increasingly decided along a left-right spectrum has not led to the perception of the EP as an increasingly politicised actor overall. There is still a tendency to perceive the Parliament as a unitary actor and the lack of a fully developed culture of debate certainly emphasises this.

While there have been some attempts to remedy this tendency in the 2009 election campaign, by emphasising the ideological differences between parties, for example on economic and social policy in the party manifestos, this has only been partially successful. On the whole voters still struggle to distinguish different party programmes. In any case European elections are dominated by national issues rather than European policy.

The abovementioned focus on work in the parliamentary committees reduces the ability to capture public attention. While the EP's committees (unlike those of many national parliaments) are open to the public they are guided by a different logic, where technical policy detail rather than clear-cut and easily transmissible ideological positions dominate. Lastly, the fact that the European Parliament elections are not linked to the appointment of a government also plays a role in making European elections less salient than national ones.

The absence of a politicised European debate, however, is clearly detrimental to the EP's capacity to present itself as a relevant political actor. The increasing focus on streamlining procedures in the European Parliament and the focus on technical detail outlined above only emphasise these problems. This means that extending the powers of the Parliament and presenting itself ever more as an efficient legislative body has not 'paid off' in terms of how it is perceived as a political actor outside Brussels, most importantly by the public. This poses a considerable problem for the legitimacy of the Parliament. If growing powers are matched with continually falling turnout, the logic of strengthening the European Parliament's powers as a means of democratising EU governance is undermined. In order to halt this trend, the next European Parliament should therefore carefully balance the need for efficiency with its role as a public forum for political debate. Therefore, more efforts should be made to politicise the debate in the EP, and debate in plenary should be structured around the most politically salient questions. Indeed, the experience of the Services Directive has shown that, while difficult, it is possible for the Parliament to shape controversial policy.

Moreover, in addition to making EU policy more relevant to the public, the EP elections should be personalised, presenting 'faces' that the public can recognise and relate to. In this regard the role of national parties is also crucial in presenting candidates to the EP that are able to make an impact and in giving some space to European themes in the European election campaign.

²⁷ The number of official languages used in the EP grew from 11 prior 2004 to 20 for the new EP legislature and 23 in 2007. This means that the number of direct translations needed grew by 360% from 110 (pre-2004) to 506 today.

Conclusion

The fears that enlargement would cause a major hiccup in the workings of the European Parliament have proved unfounded. On the contrary, it has been shown that the EP actually managed to maintain its performance during the last legislature. However, enlargement has had a more indirect effect on accelerating the development towards more streamlined procedures and towards an emphasis on efficient decision-making. While enlargement cannot be seen as the sole cause of this trend, it can perhaps be seen as bolstering an already existing development.

The balance between the efficiency of its work and the need for transparency and public debate is a difficult one to strike for any legislature, not just the European Parliament. Moreover, the dismal figures for predicted voter turnout must be seen in the context of growing public disillusionment, also in the member states. An ever more powerful European Parliament would ignore the problem of growing public apathy at its peril. In order to assess the future development of the EP, both its political power positioning in the EU institutional context and its wider legitimacy need to be taken into account. An assessment of the 6th legislature shows that the EP has gained within the institutional triangle of EU institutions. If the Treaty of Lisbon is ratified during the term of the EP's 7th legislature, this trend will be considerably reinforced. If it fails to capture the public's interest at the same time, however, its institutional *raison d'être* as the democratic pillar of the European Union will be in jeopardy.

























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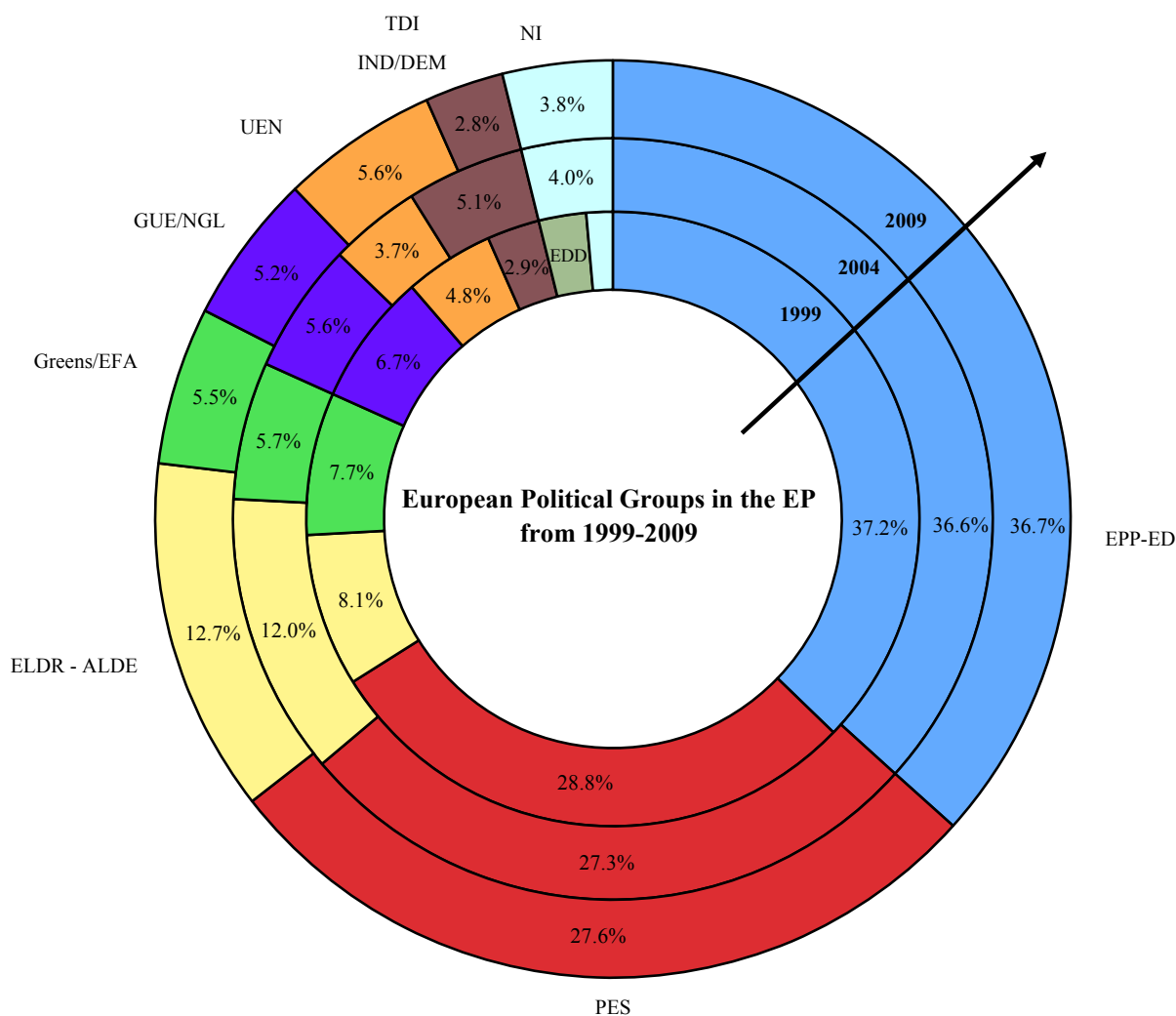
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



Annex 1. European Parliament: 5th & 6th Legislature

Composition of the European Parliament in the 6th legislature:

| |  |  |  |  |  |  |  | NI | Total |
|---|---|---|---|---|---|--|---|--------------|--------------|
| EU15 | | | | | | | | | |
|  | 6 | 7 | 6 | | 2 | | | 3 | 24 |
|  | 1 | 5 | 4 | 1 | 1 | 1 | 1 | | 14 |
|  | 49 | 23 | 7 | | 13 | 7 | | | 99 |
|  | 11 | 8 | | | | 4 | 1 | | 24 |
|  | 5 | 1 | 1 | 4 | | 1 | 1 | | 13 |
|  | 18 | 31 | 10 | | 6 | 3 | 3 | 7 | 78 |
|  | 24 | 24 | 2 | | 3 | 1 | | | 54 |
|  | 6 | 5 | 3 | | 1 | 2 | 2 | | 19 |
|  | 24 | 17 | 12 | 13 | 2 | 7 | | 3 | 78 |
|  | 7 | 7 | 5 | | 4 | 2 | 2 | | 27 |
|  | 4 | 3 | 5 | | 1 | 1 | | | 14 |
|  | 27 | 19 | 11 | | 5 | 1 | 8 | 7 | 78 |
|  | 9 | 12 | | | | 3 | | | 24 |
|  | 3 | 1 | 1 | | 1 | | | | 6 |
|  | 6 | 7 | 1 | | 2 | | | 2 | 18 |
| Total EU15 | 200 | 170 | 68 | 18 | 41 | 33 | 18 | 22 | 570 |
| % | 69.4% | 78.3% | 68.0% | 40.9% | 95.3% | 80.5% | 81.8% | 73.3% | 72.6% |
| EU12 | | | | | | | | | |
|  | 5 | 5 | 5 | | | | | 3 | 18 |
|  | 14 | 2 | | | | 6 | 1 | 1 | 24 |
|  | 1 | 3 | 2 | | | | | | 6 |
|  | 3 | | 1 | | | 2 | | | 6 |
|  | 3 | | 1 | 4 | 1 | | | | 9 |
|  | 2 | 2 | 7 | 2 | | | | | 13 |
|  | 13 | 9 | 2 | | | | | | 24 |
|  | 2 | 3 | | | | | | | 5 |
|  | 15 | 9 | 6 | 20 | | | 3 | 1 | 54 |
|  | 18 | 10 | 6 | | 1 | | | | 35 |
|  | 4 | 1 | 2 | | | | | | 7 |
|  | 8 | 3 | | | | | | 3 | 14 |
| Total EU12 | 88 | 47 | 32 | 26 | 2 | 8 | 4 | 8 | 215 |
| % | 30.6% | 21.7% | 32.0% | 59.1% | 4.7% | 19.5% | 18.2% | 26.7% | 27.4% |
| |  |  |  |  |  |  |  | NI | Total |
| Total | 288 | 217 | 100 | 44 | 43 | 41 | 22 | 30 | 785 |

Source: <http://www.europarl.europa.eu/members/expert/groupAndCountry.do?language=EN>

Ratio of European Political Party Groups in the 5th and 6th legislature:**Seats taken in the European Parliament for the 5th and 6th legislature:**

| | | 1999 | | 2004 | | 2009 | |
|---|---------------|------------|-------------|------------|-------------|------------|-------------|
|  | EPP-ED | 233 | 37.2% | 268 | 36.6% | 288 | 36.7% |
|  | PES | 180 | 28.8% | 200 | 27.3% | 217 | 27.6% |
|  | ELDR - ALDE | 51 | 8.1% | 88 | 12.0% | 100 | 12.7% |
|  | Greens/EFA | 48 | 7.7% | 42 | 5.7% | 43 | 5.5% |
|  | GUE/NGL | 42 | 6.7% | 41 | 5.6% | 41 | 5.2% |
|  | UEN | 30 | 4.8% | 27 | 3.7% | 44 | 5.6% |
|  | TDI - IND/DEM | 18 | 2.9% | 37 | 5.1% | 22 | 2.8% |
| | EDD | 16 | 2.6% | - | - | - | - |
|  | NI | 8 | 1.3% | 29 | 4.0% | 30 | 3.8% |
| | Total | 626 | 100% | 732 | 100% | 785 | 100% |

Sources: Own sources based on information from the European Parliament

Annex 2. Methodology and Sources

The paper draws upon a mix of quantitative and qualitative elements.

I. Quantitative Methods

The following sources were used for the quantitative research:

- *OEIL: Output of procedures by the European Parliament*

Figures on legislative and non-legislative output were retrieved from the Legislative Observatory of the European Parliament and analysed by looking at policy areas, national delegations and European party participation. For comparable data we used output from the 1994-1999, 1999-2004 legislature and 2004-2009 legislatures. The comparison has allowed the identification of changes in relation to a number of indicators, both concerning the quantity and type of output. Results indicate the degree of change and the functioning of the European Parliament since 2004.

- *European Parliament directory: Mapping of positions of European deputies*

The positions of the Members of the European Parliament were mapped. This allowed an assessment of the output in terms of the allocated positions in the European political party groups, parliamentary committees and delegations (committee/delegation bureau members, group coordinators, rapporteurs) and the European Parliament bodies (Bureau, Conference of Presidents).

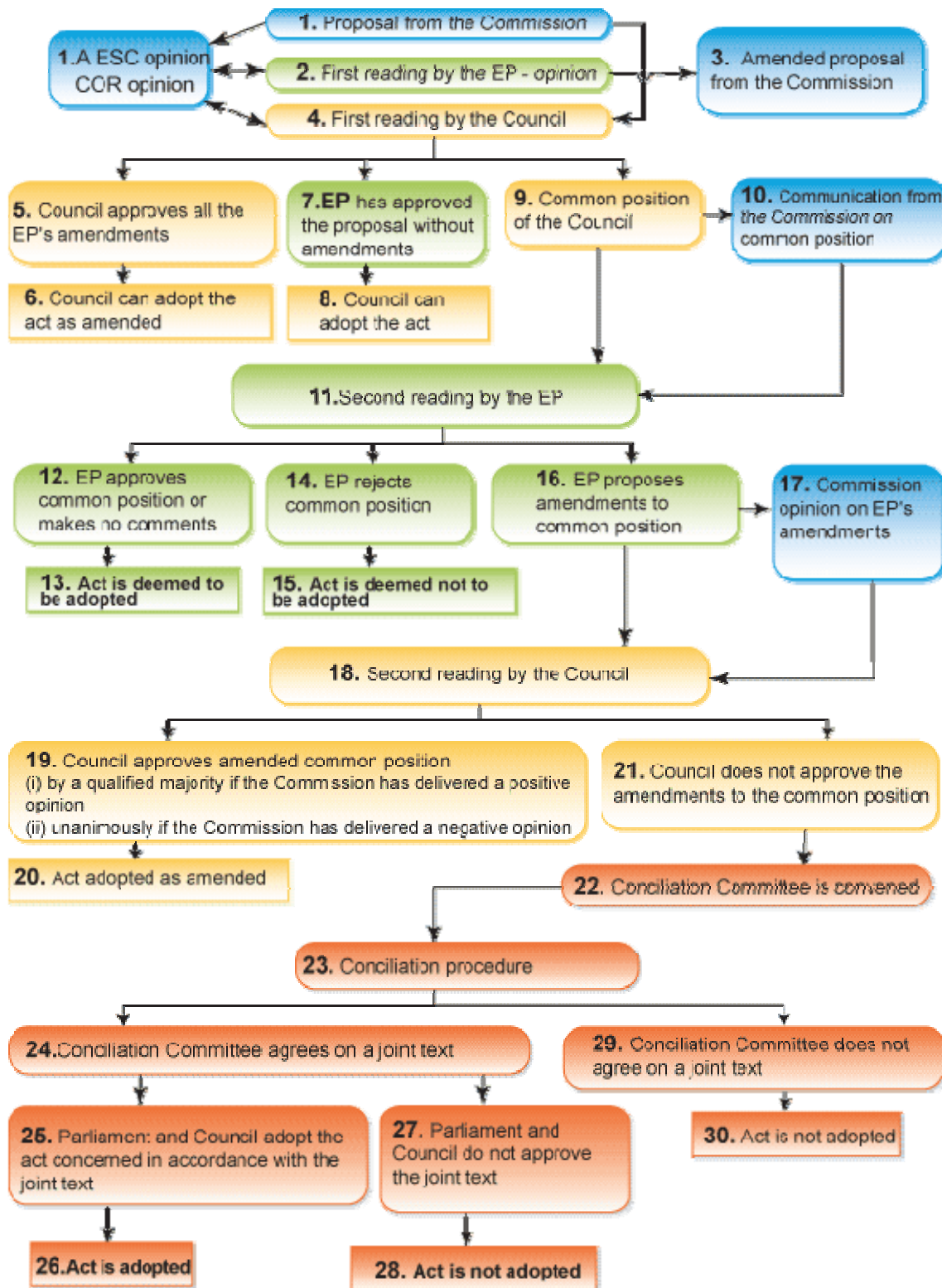
- *Other sources: voting behaviour and cohesion, coalition building*

Gathering data on voting behaviour and cohesion are subject to limitations of availability. Most data is available from <http://www.votewatch.eu/>, which is used in this study as a main source on voting behaviour, cohesion and coalition building.

II. Qualitative Methods

The findings obtained from the data were complemented by qualitative research. Researchers conducted 34 in-depth, semi-structured interviews. Besides European Parliament deputies and officials, the Council and Commission officials were interviewed, as well as other experts and long-time observers (EU-correspondents and think-tank academics). Interviewees were selected either on the basis of their horizontal functions (coordination, interinstitutional relations, senior advisers) or because they worked in particularly dynamic policy areas that either showed considerable changes in output or had high-profile proposals under discussion. Interviewees were shown the retrieved quantitative research and their responses helped to put the data into a broader context. The interviewees, who wished to remain anonymous, provided important insights into the developments that have occurred in the European Parliament since 2004.

Annex 3. Co-decision



Source: http://ec.europa.eu/codecision/stepbystep/diagram_en.htm. For a more detailed version see http://ec.europa.eu/codecision/stepbystep/text/index_en.htm.

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