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Peter Connor

The ability of the European Parliament to enhance the functioning of democracy  
within the European Union

Abstract:

The European Union consists of a complex institutionalised decision-making system. As the only directly-elected institution, the European Parliament has been empowered through successive treaties to improve the legitimacy and thus reduce the democratic deficit. The latest treaty, namely the Lisbon Treaty, sought to continue this trend by empowering the European Parliament further to a point it now constitutes a major institutional player in the decision-making process. This thesis will therefore attempt to answer the ability of the European Parliament to enhance the functioning of democracy within the European Union. It will do so by examining a number of key policy areas such as appointment of the Commission College, enlargement of the European Union and legislative decision-making. These will be examined in regards to how the European Parliament participates in these fields and cooperates with the European Union's institutions. It will also be considered how interinstitutional conflict is dealt with and how the European Parliament has internally structured itself in order to accomplish its goals. In order to interpret the findings of this research liberal intergovernmentalism has been identified as a possible explanatory theory with its usefulness in explaining the central position of Member State control in European Union affairs. It will be found the European Parliament is able influence the decision-making process and those actors involved in a manner it was previously unable to do prior to the Lisbon Treaty which as a result has significant impacts on the democratic functioning of the European Union.

**The ability of the European Parliament to enhance the functioning of  
democracy within the European Union**

Sub-title: The European Parliament and European Union democracy.

A thesis in submission in fulfilment of the requirements for the degree of Doctor of  
Philosophy

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Finally this thesis is dedicated to the memory of my grandad Gerald Costello.

## **Chapter One: Introduction**

### **Introduction**

This thesis will address the ability of the European Parliament to enhance the functioning of democracy within the European Union. Originally the European integration project was constructed around the intergovernmental needs of the Member States at the expense of democratic values. The European Parliament, formerly known as the Common Assembly, has made numerous efforts to address intergovernmental bias with varying degrees of success. Addressing Members of the European Parliament (MEPs) former Commission President Romano Prodi emphasises the importance of ensuring less European Union decision-making would be based on intergovernmentalism and more on the community method between an institutional triangle of the Commission, Council of the European Union (Council) and European Parliament (Prodi 2002). Whereas the treaties of the European Union have in the past placed the European Parliament in a weaker position relative to the Member States. As Commission President Barroso points out, “Certain forms of intergovernmentalism could be the death of the united Europe we wish for.” (Barroso 2011). Democratic legitimacy has thus become a key objective for the European Union with the European Parliament poised as the obvious candidate to achieve this goal. Coupled with support from Presidents of the Commission a number of changes have been introduced that modify the institutional framework towards a new equilibrium.

These changes stem from the introduction of the Lisbon Treaty in 2009 and signal a desire for democratic legitimacy through parliamentary empowerment. After all, areas of competence that were once attributed to national political systems and scrutinised by national parliaments have been transferred to the supranational level. This raises the issue of in its current form how capable is the European Parliament in providing these essential democratic qualities? For this a wide variety of indicators will need to be examined but first it will be useful to provide further clarification on the research topic. In the past there has been a great deal of focus on determining the democratic extent of the European Union as a whole. Scholars have thus examined the European Union exposing its weaknesses, ascertaining its strengths and

highlighting perceived democratic shortfalls (Majone 2010; Follesdal and Hix 2006; Moravcsik 2008). These democratic shortfalls or ‘democratic deficit’ as it has come to be known have plagued the European Union with critics quick to point out areas where democracy has been side-lined in favour of the perceived interests of the Member States. Pinpointing the democratic deficit also comes fraught with its own difficulties given that it raises pragmatic questions about the very nature of the European Union. Depending on ideological positioning and the open ended nature of the integration project there will always be disagreement over how decisions should be made.

Therefore this thesis will look specifically at the direct impact the European Parliament has on defining the democratic character of the European Union. In accomplishing this throughout the proceeding chapters four questions will be identified and prove useful in examining several key areas where the European Parliament is active. These questions also link directly to the overarching principles of the Lisbon Treaty itself. In 2009 these principles were re-affirmed by the Member States themselves through the European Council, “the Treaty of Lisbon is considered necessary in order to help the enlarged Union to function more efficiently, more democratically and more effectively” (2009, p.2). With this in mind the first question seeks to identify exactly how the European Parliament participates within the decision-making processes? In different jurisdictions the European Parliament has very different ways and means available to influence. Made all the more complicated by a dual party system where MEPs have loyalties to both the national and supranational level. Too often commentators describe the European Parliament in a monolithic sense, not giving due credence to the internal dynamics, conflict and political fallout which can hamper the European Parliament from exercising its potential. Secondly, the European Union's institutions have an obligation to cooperate. This relationship will be instrumental in understanding the balance between parliamentary interests and the perceived self-interest of the intergovernmental institutions, namely the Council and European Council. The European Parliament is involved in a highly complex interinstitutional framework particularly in regard to relations with the Council and Commission, none more so than where adopting legislation is concerned. Realising the complexity of European Union affairs means appreciating the diversity in how relationships between actors are formed. However cooperation is not always possible and can even lead to instances of outright conflict.

This logically leads to the question of when conflict does arise, how is the European Parliament positioned to resolve this? Conflict can occur for a number of reasons as is often the case over interpretation of the treaties or simply a difference of opinion. Procedures have been put in place to deal with legislative disagreement through conciliation committees however; it is not always evident how other policy areas are resolved when conflict arises given its unpredictable nature. Again with such instances it will be useful to look beyond the European Parliament as a unified actor in order to elaborate on the politics at play within the institution itself. If able to resolve disputes and seek productive methods of interaction, even where no formal precedent exists, the European Parliament can claim an essence of professionalism that will add to the European Union's democratic character. Evidently if the reverse is shown then this must be exposed and revised if empowerment is to be successful.

Finally this brings a fourth consideration for examination in questioning how the European Parliament structures itself internally. The treaties outline the framework guiding how the institutions and actors have to function along with their legal obligations. Yet the European Parliament still has significant scope in organising itself internally, therefore influencing the means by which relationships are formed. For example, the Rules of Procedure provide the European Parliament with a detailed instruction manual which has been crafted over the years through careful negotiation between political parties. Allowing for judgements to be made by this thesis not only on the decision-making outcomes the European Parliament produces but also on its ability to promote participation, cooperation and consensus. Therefore to summarise the above mentioned questions, the following will serve as a basis for evaluation in the proceeding chapters:

1. How does the European Parliament participate in the decision-making process?
2. How cooperative is the interinstitutional relationship?
3. How is the European Parliament positioned to resolve conflict where it may arise?
4. Has the European Parliament been able to organise itself in a manner befitting its roles and responsibilities?

## **Importance of the Research Question**

Currently the European Parliament represents over 500 million citizens and is the only directly-elected institution in the European Union. MEPs have the authority to amend and reject almost all EU laws, discharge the annual budget, approve the European Commission and possess a veto over the accession of any new Member State. This goes beyond the remit of any national parliamentarian and even national leaders as they can be outvoted in the Council by qualified majority voting (QMV). In such a scenario outvoted Member States always have the option to communicate their concerns to the European Parliament rather than forcing any Member State to repeat the actions of France in 1965 by boycotting European institutions. Making it all the more important for good relations to exist between institutions as the European Parliament can have a significant international impact in how twenty eight Member States communicate and settle their differences. This is helped by the fact, “The European public has expressed a clear desire for more coordination among Member States to meet the economic and financial crisis: 86% of respondents agree that EU Member States should work together more in order to take measures to combat the financial and economic crisis” (European Commission 2010, p.31). As a result of the European financial crisis, further scrutinising measures have been bestowed upon the European Parliament over national accounts through economic governance legislation in 2011, also known as the ‘six pack’.

This pattern of granting the European Parliament greater participation in the decision-making process of the European Union took a significant step in all major policy areas with the introduction of the Lisbon Treaty. Other treaties have been implemented before it, but none have had such an impact on the functioning of the European Parliament. Additionally this undertaking is at a time when, “Russia is once again asserting itself, and is in a powerful position not least because it controls most of the EU's energy supply [...] The EU does not have the power to pacify the Middle East, and its interests are directly jeopardised by political instability in the large arc from Turkey to India.” (Duff 2009, p.5). Not to mention negotiations are currently ongoing for the largest free trade agreement in history between the European Union and the USA. For anyone in doubt over the capability of the European Parliament to affect the outcome of the European Union's international relations one only has to examine how MEPs blocked the Society for Worldwide Interbank Financial

Telecommunication (SWIFT) agreement in 2010 until a number of concessions were granted by the United States (US). Given the high stakes involved it is critical European Parliamentary behaviour is understood and fully examined in a post Lisbon Treaty era.

### **Significance to the Field of Knowledge**

One consequence from the introduction of the Lisbon Treaty is that much of the most influential literature on the European Parliament is now outdated. Not surprisingly this is not the first time an author of European Parliamentary studies has been faced with this predicament and opportunity to contribute a fresh perspective. According to Martin Westlake's 'A Modern Guide to the European Parliament', "there is good reason to suppose that the Maastricht Treaty has fundamentally changed the European Parliament's institutional position and role. That change has been fully absorbed in this text, which tries to portray the 'new' Parliament in all its different contexts: from the historical to the institutional, from the procedural to the political." (1994, xiv). Just as the Maastricht Treaty changed the institutional design of the European Union back in 1993 so too has the Lisbon Treaty in 2009. It is important to remember therefore, "The European Parliament is not a carbon copy of national parliaments [...] the European Parliament was not conceived by its constituents as a finished product. It is a parliament in the making, an assembly that makes choices as it goes along." (European Parliament 2008, p.289). Previous examinations have therefore placed the European Parliament in a weak position institutionally and rightly so. Therefore the outcomes of the Lisbon Treaty can only be witnessed once it has been put into practice.

Even where the failed European Constitutional Treaty is taken into account, which later became the Lisbon Treaty minus some petty alterations, the likes of Andrew Moravcsik demeans its impact, "There is no prospective *grand projet*, akin to the single market of the 1980s or the single currency of the 1990s, to justify major constitutional change." (Moravcsik 2006 p.236). Certainly the first part of Moravcsik's claim here is accurate in that the Lisbon Treaty did not introduce any grandiose enterprises nor does this thesis claim it did so. However what is less apparent and remains to be tested is the impact of these reforms on the capabilities of the European Parliament in justifying the extent of constitutional change. An

interpretation of the text alone is not enough to make a concise judgement, as has been done by Moravcsik in this case. As former United Kingdom Prime Minister Tony Blair explains, regarding the process of drafting this treaty, its objective, “should be a Europe that is strong, effective and democratic [...] this requires a strengthening of Europe at every level” (Blair 2002). This finally transpired through the wishes European Council members like Blair in creating an improved framework for decision-making. In submitting the draft Constitutional Treaty, “The Convention agreed on a major enhancement of the democratic nature of the Union. The Constitution incorporates it, calling for a significant expansion of the role of the European Parliament” (European Convention 2003, p.4) It is within this significant expansion where it remains to be seen how influential the European Parliament has become. Sufficient time has elapsed where the European Parliament can be judged against a new institutional framework and dominant theories of European integration can be put to the test against an entirely new collection of evidence.

### **Structure and Argument of the Thesis**

In setting out to answer the question a number of issues first have to be addressed. Logically the first of these concerns the evolutionary progression of the European Parliament and more specifically its ramifications on the democratic deficit debate. As pointed out by the European University Institute, “Democracy is a moving target, a never-ending struggle that it would be ridiculous to hem in within the codes of the past and within the nation where it was born.” (2008, p. 288). Coupled with the *sui generis* nature of the European Union it would therefore be inadvisable to compare the European Parliament to the parliaments of its Member States. Instead this thesis will focus on the actions of the European Parliament in what it has accomplished and also where it deserves to be criticised. Doing so, this thesis will argue, means clearly understanding the operation of the institutional framework by which this institution has evolved into and at times been restricted by. This directly leads to finding the European Parliament has previously been in a much weaker position *vis-à-vis* the intergovernmental interests of the Member States.



It is only within this historical context that the foundations for the democratic deficit debate can be conceptualised. As this thesis will argue democracy was not originally a primary objective of the integration project and neither should it have been. The transfer of powers to the supranational level has been a slow and difficult process at times. Logically it had to surmise that Member States were placed in a position of dominance and in doing so allowed for the incremental process of the European Parliament to be empowered. Democracy has thus been a fluid and dynamic value which developed around the needs of the integration project as it deepened and widened. Beyond this MEPs now have a prominent role in how the European Parliament operates and take advantage of the powers bestowed upon it. One of the central claims of this thesis states MEPs and the European political party system can have a significant impact on how effective the institution is as a whole. Furthermore this allows for greater accountability on the behaviour of MEPs as empowerment demands greater responsibility on their actions. This link was previously much weaker as less European Parliamentary involvement meant a limited amount of influence was capable.

What this allows for is a series of theoretical propositions to be tested in understanding the influence of the only directly-elected institution in the European Union. As described above and in much more detail in the proceeding chapters, the European Union stems from an intergovernmental creation where the Member States were placed as the principal gatekeepers of authority. Consequently liberal intergovernmentalism proved the most successful theory of European integration with its focus on state-centrism. However empowerment through the Lisbon Treaty has meant the institutional framework has shifted. It is the goal of this thesis to uncover the extent of this shift and the consequences for European Parliamentary influence. As a result liberal intergovernmentalism remains to be fully tested against new data collected and examined in the coming chapters.

This thesis does not propose Member State influence has become irrelevant. Rather, liberal intergovernmentalism will no longer suffice as a standalone theory in explaining the supranational balance of power. This will be argued throughout chapters four, five and six where the main findings of the thesis are contained. Each of these chapters focus on a primary function of the European Parliament, namely, investiture, legislative decision-making and enlargement of the European Union. What is more, each one of these chapters

contains a dedicated case study in order to strengthen the research and conclusions to be drawn. It will be argued even minor changes introduced by the Lisbon Treaty have influenced the democratic process in a profound way. Moreover these changes have had noticeable ramifications on the interinstitutional relationship, some of which have led to surprising behaviour and outright institutional conflict. It will be further shown there are clear opportunities for the European Parliament to improve upon its internal functioning which would lessen the existence of institutional conflict. Out with these criticisms it will be highlighted the European Parliament has added a great deal to the democratic functioning of the European Union. Not only are supranational actors held more accountable but they are done so with far more transparency. The process is an ongoing affair and far from perfect, subject to political transitions and external pressures. However this thesis will show an institutional framework has been put in place that allows for the European Parliament to significantly influence the democratic legitimacy of the European Union.

### **Limitations of the Research**

It must be pointed out that this research was subject to a number of limitations which have been carefully considered throughout the undertaking of this project. Every effort has been made to minimise their impact and where possible consider alternative options. For instance, it proved difficult to secure interviews with actors at the most senior level of European politics. On several occasions nationally appointed officials and parliamentarians failed to respond to my requests for an interview. This meant looking for alternative candidates to interview and in doing so I was able to find suitable substitutes. Where direct interviews were not always possible it proved useful to conduct interviews over the telephone and through electronic exchanges. Thankfully however due to the nature of the research topics there was no instance where the relevant information could only be accessed from one source or individual alone. Although a series of field trips had been organised to collect information directly from the European Parliament, in some cases MEPs requested a scheduling change or cancellation. In one instance I was forced to cancel an interview in order to secure a meeting with another MEP in a more senior position in the hope of collecting data from a more distinguished source.

What proved more challenging were the conditions under which selections of the interviews were conducted. Naturally the majority of interviews were conducted with parliamentarians who for the most part have a busy working schedule. This meant not all interviews could be conducted under the same time parameters. In fact the range of conditions was quite varied with some candidates only able to meet for a relatively short period of time to those able to meet at length. In only one instance was an interview conducted with the aid of a translator. Overall this did not impede the data gathered from the interview however it did slow down the process and require particular care to ensure communication was as clear as possible. With English being one of the official working languages of the European Union most MEPs are well versed in its daily use. There were few points where language, outside the one instance with a translator, was considered a barrier to conducting interviews and evidence gathering. One final limitation regarding language concerns the publishing of official documents. Prior to 1973 there was no English speaking country in the integration project and therefore no need to provide translations. The significant majority of material needed for this thesis was already published following direct European Parliamentary elections in 1979 however, in some instances regarding historical comparative purposes it would have been useful to include a wider range of documents that were only ever produced in a select group of languages. In part thanks to the work of the European Parliament there is a greater access to documents that would have seriously impeded the conducting of such a thesis decades ago.

Another aspect of direct elections has resulted in the forming of European political parties. It should be stressed the majority of interviews conducted with MEPs are members of the larger political parties. It is therefore difficult to know what a candidate might have said had they not been subject to party affiliation. Although it should be noted the issues being discussed were not of a directly sensitive nature for MEPs to comment upon. In several occasions MEPs had already stated quite openly their own personal opinion on the issues being discussed. There were no occasions where any interviewee did not wish to follow up on previous statements or provide additional commentary once events had unfolded further. What did become apparent in the interviewing was that MEPs outside of the main political parties were more candid in their responses. Furthermore MEPs being interviewed had different levels of experience given how many terms they had been elected for. In one interview an MEP mentioned they viewed the Commission hearing process quite differently

given their previous experience with it. Therefore in relation to this, it is possible some respondents were influenced by their limited experience in a single European Parliamentary committee rather than answering objectively towards the institution as a whole. Finally it would have been beneficial to have explored further policy areas to widen the scope of the thesis. Due to the parliamentary cycle it was not possible to investigate all aspects of MEPs work. However this thesis has made every effort to include a wide spread of European Parliamentary affairs and highlight some of the most controversial issues it has faced thus far.

## **Summary of the Remaining Chapters**

### Chapter 2:

The second chapter will provide a detailed historical backdrop on the European Parliament and its role in enhancing the functioning of democracy within the European Union. Exploring this evolutionary progression provides this thesis with a number of useful insights. Firstly it allows for a precise explanation into the development of the institutional framework by charting the European Parliament relative to the other European institutions. For any significant data to be collected on European Parliamentary affairs it is essential to provide a clear chronological account of its history as much of the current parliamentary behaviour is in some way influenced by its past. This has resulted in an institutional culture that this chapter seeks to account for through an examination of the institutions defining moments that still have an impact to this day. Acknowledging the parameters the European Parliament has had to previously operate within contribute to our understanding of the contemporary decision-making process. Especially as many procedural changes occurred not through logic or consensus but through innovation and conflict. With this in mind this chapter is able to explain the development of procedure and changes to behaviour that otherwise would seem puzzling.

Secondly this chapter seeks to structure the debate within the literature about the European Parliament's role in promoting democratic legitimacy. This will be accomplished by outlining

the current democratic deficit debate and providing a critical review of the literature surrounding intergovernmentalism versus supranationalism as a means of promoting legitimacy. Such a debate links into the previous discussion on evolution of the European Parliament. This will be shown through stages of institutional development where legitimacy concerns have arisen as authority has transferred to the supranational level. Yet disagreement still exists about the level of participation required by the European Parliament in order to secure legitimacy. However this chapter will put forward a case that there is a considerable responsibility on the European Parliament since, “Taken as a whole, the Treaty of Lisbon is a substantial improvement on the existing Treaties, which will bring more democratic accountability to the Union and enhance its decision making” (European Parliament 2008, p.5). Therefore even with disagreement among scholars regarding the role of the European Parliament the objectives of this thesis are not impeded. This chapter is able to establish clear criteria for democracy based on the objectives of the Lisbon Treaty. As a means of contribution this chapter has not only clarified the criteria for assessment but also demystified the democratic deficit debate. Additionally this chapter is able to clarify the expectations placed on the European Parliament which serves as a basis for assessment in the proceeding chapters. Such a discussion has been weakened by previous scholars where personal opinions and beliefs about how the European Union should function have landed unjust criticism towards MEPs. It has been established the European Parliament will be assessed within its institutional capabilities and not tested against what ideal forms of behaviour a selection of scholars might wish. Therefore with a clear mandate for behaviour and a benchmark for standards this chapter prepares the thesis for a detailed discussion on a theoretical framework to be undertaken.

### Chapter 3:

The third chapter in this thesis is devoted to theoretical approaches used in the understanding of European Union integration. A growing number of theories have attempted to interpret the behaviour of actors and institutions in the European Union. However just as we have come to accept there is no grand theory that explains politics on the national level, the same can also be said regarding the European Union. Instead this chapter is able to demonstrate particular theories have proven more appropriate at different stages in European integration. With much

of the changes introduced in the Lisbon Treaty stemming from a need to tackle intergovernmentalism the influence of liberal intergovernmentalism cannot be overlooked. Therefore this chapter acknowledges liberal intergovernmentalism could prove to be the most successful means of interpreting events. With its focus on state centrism and limited role for supranational institutions this theory logically serves as the initial theory for discussion.

Yet as will become apparent this theory alone does not offer a satisfactory explanation when faced with all aspects of European Parliamentary influence and reform. A case has been constructed in this chapter that pays particular attention to the theory of new institutionalism as a means for possible use. The strands of this theory will be elaborated in the chapter itself however an important distinction is put forward between the guidelines presented in the treaties *de jure* and the actual operation of decision-making *de facto*. Competing theories must be explored as a possible alternative given no one theory has previously been able to interpret all the facts in European integration. Further enabling the data gathered and presented in chapters four, five and six to be presented in a meaningful fashion. It is this proposition that leads the chapter towards a methodology focusing on the behaviour of MEPs through qualitative methods. The use of which, are examined in further detail in order to establish the role of qualitative interviewing specifically for this thesis. Through this contribution a clear method for data collection is made which allows for the proceeding case studies to answer the research question by the most efficient means.

#### Chapter 4:

As with any international organisation its credibility and ability to function is subject to the procedure by which positions are filled. For this reason chapter four of this thesis focuses on the appointment of the College of Commissioners within the European Commission. While the European Parliament is involved in several different appointment procedures, selecting the European Commission is by far the most important. Running on a five year term alongside the European Parliament, each Commissioner is nominated from within the Member States. The whole process begins with national leaders nominating a candidate for President of the Commission, it is only then that the European Parliament officially

participates in this lengthy process. Critically this highlights the conflict central to this thesis between intergovernmentalism and supranationalism throughout the whole appointment process. Historically the European Parliament has become further involved in this process term after term. The treaties broadly outline the procedure in favour of a supranational approach, more so because of the changes introduced in the Lisbon Treaty granting MEPs further scope. However as history has shown the treaties have a tendency to leave room for interpretation and flexibility. Additionally this chapter must address the presence of interinstitutional agreements which have since become legally binding. This has allowed the European Parliament to negotiate further influence out-with the direct control of Member States and add to the discussion of MEPs pursuing their own supranational agenda.

Therefore this chapter seeks to expose the true nature of European Parliamentary influence and how this translates into real power for MEPs. It will be clarified how the European Parliament actually participates in the process both formally and informally. Beyond that the European Parliament has used its position as leverage to gain further concessions in the process at large. This chapter will explain how MEPs have been successful in doing so and where they have failed. Naturally this means addressing the issue of interinstitutional cooperation. It is not always possible for the actors involved to agree on everything, conflict has become a regular occurrence between institutions and within the European Parliament itself. Such conflicts have left lasting changes on the process for the future, both procedural and in how MEPs organise themselves. Through this examination the benefits of European Parliamentary scrutiny become clear while addressing a selection of weaknesses that still remain.

The contribution of this chapter in line with the goals of this thesis as a whole can be clearly seen in the case study surrounding Rumiana Jeleva's failed bid to become Commissioner in 2010. Focussing on the hearing itself as a means of European Parliamentary scrutiny, MEPs successfully forced Member States to back down over their support for Jeleva. The interesting example of this case study is that it provides a clear instance of conflict where intergovernmental pressures were tested against a new model for supranational decision-making. It was also able to test claims made against the credibility of political parties in withdrawing support for Jeleva which questioned the integrity of European Parliamentary

inclusion. By introducing data collected from MEPs with a direct influence over Jeleva's candidacy this chapter produces a number of findings central to the research question. Firstly, the importance of party affiliation to Commissioner candidates seeking parliamentary support. Secondly the motives behind the actions of MEPs in withdrawing support for Jeleva and finally the surprising strength of intergovernmental pressures that remains present while relatively small changes introduced by the Lisbon Treaty can have a significant impact.

## Chapter 5:

In order for the European Union to function democratically it must contain Member States that adhere to same values. Otherwise its ability to function would become seriously undermined. For example, the European Parliament's own membership is largely drawn from national political parties each operating within a distinct form of democracy. Therefore the European Parliament has a vested interest towards which potential candidates are granted accession. Cooperation would be difficult across institutions if nominated officials in the Council and Commission contained representatives from Member States with divergent values on transparency. Because of this chapter five focuses on enlargement of the European Union and seeks to examine the role for MEPs in the lengthy process of granting accession to new Member States. It is made quite clear in the treaties that the European Parliament must grant consent in order for any new member to join the European Union. However the consent procedure is only undertaken towards the end of the accession process. Often years of negotiating have already taken place with the treaties offering very little detail regarding the input of the European Parliament.

It will therefore be clarified what opportunities the European Parliament has to participate in the enlargement process. Moreover it will determine the true extent of European Parliamentary influence and clarify the reasoning behind the desire of European political parties to be further involved from a far earlier stage. In doing so MEPs have negotiated interinstitutional agreements and established Joint Parliamentary Committees (JPC) out with the control of Member States. These have been examined in order to determine the impact on enlargement policy and establish whether the European Parliament has brought any real



legitimacy benefits to the process. Furthermore a case study focussing on the EU-Iceland JPC has been compiled in order to assess the extent of MEP involvement. This case study seeks to illustrate the attempts being made by the European Parliament to not just communicate with potential members but also influence the enlargement process on its own terms.

The contribution of this chapter illustrates the effectiveness of European Parliamentary resources without the need for Member State participation. A great deal of energy is used by MEPs in scrutinising candidate countries and monitoring the opinions of other prominent institutional actors. This chapter is able to directly include the attitudes of those MEPs most closely involved as well as actors within the Council and Commission. The opinion of actors out with the European Parliament has been necessary in providing evidence critical towards the behaviour of MEPs. Moreover the opinion of Icelandic parliamentarians address the stark strengths and weaknesses of European Parliamentary actions contributing that further empowerment does not always lead to additional benefits. Overall this chapter is able to highlight the importance of responsibility that lies with MEPs through their political parties in accounting for where to best place their finite resources. It is also able to expose a number of instances where the European Parliament's input beyond the consent procedure was able to promote transparency and the accountability of intergovernmental actors.

## Chapter 6:

Chapter six of this thesis deals with the legislative politics of the European Union. MEPs have seen their involvement steadily increase within this field over the years to the point they now constitute one of the major components in formulating European Union law. The European Parliament is primarily occupied in legislative politics through the Ordinary Legislative Procedure (OLP) formerly referred to as codecision which currently applies to, "85 defined policy areas covering the majority of the EU's areas of competence" (European Parliament 2014a). Understandably a significant amount of European Parliamentary time and resources are devoted to this process. This chapter therefore seeks to assess the quality of participation from MEPs especially as, "the Parliament and Council have become familiar with codecision the way they use the procedure has changed. Importantly, there has been a

trend towards shortening the legislative process” (House of Lords 2009). Consequently the shortened process means much of the procedure as outlined by the treaties has become less significant with agreements increasingly made at the first reading stage. This chapter thus exposes the legislative process beyond the remit of what the treaties alone can disclose regarding European Parliamentary input and participation.

As the European Parliament adapts to the changing circumstances its committee system has become central to its ability to scrutinise. It is through these committees where MEPs are allocated as rapporteurs on legislative proposals. This chapter therefore seeks to investigate the importance placed on rapporteurship and the conditions by which these appointments are made. Ultimately these selected MEPs are given a privileged status in legislative negotiations. The implications surrounding how the European Parliament structures itself in order to allocate these rapporteur and committee positions have profound consequences on the ability to scrutinise effectively. For this reason a significant portion of this chapter focuses on the behaviour of political parties and their impact on the democratic functioning of legislative decision-making.

The ability of the European Parliament to influence is most prevalent when the largest political parties are able to cooperate collectively. In order to uncover the extent of this influence a case study within this chapter focuses on the institutional conflict surrounding the Schengen Evaluation Mechanism. It addresses a fundamental distinction between the institutions involved in that the European Parliament places a value on the Schengen Agreement as a supranational ideal others do not. Moreover it provides a basis to examine one of the most notable examples of MEPs challenging the intergovernmental interests of the Member States and supplies a means to include aspects of conflict resolution. Support from this case study supports weakening of liberal intergovernmentalism as a perspective to fully account for the major changes undertaken since the Lisbon Treaty. As Maros Sefcovic institutional affairs commissioner reminds Member States, “it is not only important what kind of decisions are taken but how they are taken” (Sefcovic 2010). This statement in line with the conclusions of this chapter highlights legitimacy stems beyond involvement in the treaties to the behaviour of actors participating. Therefore this case study contributes further evidence towards the proposition that the European Parliament is capable of influencing the behaviour

of Member States. Not just that but it can do so in a professional manner as a unified body under the internal rules and procedures it has put in place.

## **Chapter 2: Evolution and role of the European Parliament**

### **Introduction**

Before any research can be examined this chapter will provide a detailed discussion on the evolution of the European Parliament and its role in the functioning of democracy in the European Union. This will be accomplished alongside the development of the European Union itself and the emerging institutional framework. As will be shown the European Parliament, Council and Commission have come to form the three most important institutional actors in the decision-making process where cooperation has become a necessity for progression. Initially in a much weaker position, the European Parliament has undertaken substantial reforms over a period of six decades and this progress must be understood in order to comprehend its current behaviour. A critical review of the literature surrounding the democratic deficit will then be discussed which leads this chapter towards identifying the criteria by which the European Parliament can be assessed against in the proceeding chapters. It will be shown a divide between intergovernmentalism and supranationalism has emerged over the most effective way for European Union democracy to be achieved. Both competing perspectives offer an alternative understanding of the institutional role for the European Parliament. However this chapter will determine the standards on which the European Parliament should be judged against based the roles and responsibilities empowered upon it.

### **Evolution of the European Parliament**

In 1952, six nation states; Belgium, France, Germany, Italy, Luxembourg and the Netherlands, signed the Treaty of Paris creating the European Coal and Steel Community (ECSC). In the same year, the European Parliament took its earliest form as the Common Assembly, “marginal to the development of European integration and the politics of the European Union (EU). Initially, the institution was essentially a consultative body composed of delegates from national parliaments” (Hix, *et al.* 2003, p.191). With no role in the legislative process the Common Assembly’s initial responsibilities lay elsewhere. Its primary

purpose was to protect Member States from any supranational abuse of power through the right to censure the Commission formerly known as the High Authority. As stated in the Treaty of Paris, “the assembly shall discuss in open session the general report submitted to it by the High Authority” (Treaty of Paris 1951, Article 24). Not only had it to wait for the annual report of the High Authority before judgement could be passed, meetings were originally scheduled only on an annual basis. There was of course the possibility, as laid out in the treaty, to convene an extraordinary session of the Common Assembly. However, this expresses a measure of last resort rather than a proactive means of providing any valued input. As Dinan points out, “the Council would increasingly act as a brake on supranationalism within the community. Finally, a Common Assembly consisting of delegates of the national parliaments would give the ECSC the appearance of democratic accountability” (2005, p.27). Alongside this coal and steel were already sectors of the economy heavily influenced by Member States; therefore integration was not a major advance away from pre-existing government control.

As for who exactly was nominated for the original positions within the European Parliament the restrictions imposed on Member States were minimal. Apart from limitations on the number each Member State could nominate the only requirement was that they currently served in their national parliament (Treaty establishing the EEC 1957, Article 138). No preparation was made to structure MEPs into groups of any kind and when they first met they sat in alphabetical order. It remained to be seen how MEPs would choose to arrange themselves: be it in regards to a national formation or as single candidates working on a case by case scenario. As Hix, Noury and Roland point out there was every suggestion formation may occur along national lines. After-all the decision was made to introduce five Vice-Presidents in order that all members of the original six were represented, “by March 1953 there was a de facto division into three political party groupings: Christian Democrat, Socialist, and Liberal. These were the primary party families of continental Western Europe at the time” (Hix, *et al.* 2007, p.22). Thus the European Parliament was in no position to scrutinise legislation or hold actors accountable given the most basic elements of party formation were still taking shape.

What limited sovereignty that was surrendered was placed in the hands of the High Authority and kept closely monitored. As a result the High Authority, “was to be responsible for policy relating to the coal and steel industries in the Member States and had the power to make decisions directly affecting the economic agents in each country without regard to the wishes of the governments of those states” (Fairhurst 2007, p.6). This point is worth exploring as different policies regarding coal and steel were subject to different restrictions on how the institutions were legally obliged to act. For example in connection to investment programmes the High Authority was able to act unilaterally (Treaty establishing the ECSC Article 54). However with regards to a crisis in demand the High Authority was granted the power to establish a system of production quotas only after receiving the assent of the Council (Treaty establishing the ECSC Article 58). The European Parliament's role was side-lined through provisions for annual meetings and parliamentarians nominated on a part-time basis. It was granted a degree of financial authority in that it was able to propose modifications to the annual budget and given final approval over its adoption (Treaty establishing the ECSC Article 78).

Creating an all-powerful European Parliament from the offset could have jeopardised the founding fathers' original goals as they, “did not have high hopes for the parliamentary institution, convinced as they were at the time that the Assembly could only be a sounding box for nationalism” (Bardi *et al.* 2009, p.13). Furthermore, Member States were all too familiar with the devastation of World War Two, creating an all-powerful, directly elected European Parliament or fully independent High Authority would have replaced the threat on national sovereignty from war with that of an independent supranational agenda. The method of choice was to provide a political space for the European Parliament to evolve into, developing from the Common Assembly's presence as a forum for supranational parliamentarians. In doing so, Member States set up an institution where already experienced parliamentarians at the national level brought their knowledge and expertise to develop practices for a similar institution at the European level. It had plenty of time to do so; given the European Commission posed no danger to the integration project and the European Parliament's power to censure remained unused. In fact, Member States remained largely in control of the pace and direction of integration, “In reality the Commission's role is less impressive. Although it has a formal monopoly of the right of initiative [...] the Council of Ministers and the European Council frequently ‘invite’ it to make proposals” (Jackson and

Fitzmaurice 1979, p.40). Supranational institutions at this stage were simply too weak and reliant on Member States for not just progress but also to bring legitimacy to the project. According to Nugent, “Insofar as the legitimacy of the High Authority was considered it was assumed to stem from its establishment by democratic governments, the controls that would be placed on it by the Council and its position as a non-partisan, technocratic, expert body” (Nugent 2001, p.21). This argument still holds relevance today among intergovernmentalists, after all national governments have the mandate of being democratically elected on the national level in representing their nation.

Commentators like Scully make valid arguments suggesting that prior to direct elections in 1979 the Common Assembly did little to forge a like-minded body of pro-European politicians, “Rather than being socialized into attitudes favourable to integration, a ‘self-selection’ effect led people who already held such views to serve within the chamber” (2000, p.230). Realistically there was little alternative for the European Parliament in its earliest days as the integration project was not ready for direct elections and integration remained largely about limited economic cooperation. Only time would tell if integration in certain sectors could lead to further cooperation. The founding fathers’ concerns were justified as Duff explains, “popular support for this federal process has at best been patchy and rarely solid. Old habits die hard: nationalism has a long history in Europe” (2009, p.6). Instead Member States resorted to including the possibility of direct elections occurring in the future, under Article 21 of the Treaty constituting the European Coal and Steel Community. As Blondel *et al.* explain, supporters of the European project were not able to establish outright democracy in a political climate where Member States placed high importance on the sovereignty of the state, “What democratic element there would be would therefore be limited and fragmented” (1998, p.3). Therefore it was extremely difficult for the European Parliament to remonstrate against the will of Member States. It was more important to formulate a plan for the possibility of future elections later down the line. For this to transpire MEPs had to foster cooperation among institutions, not challenge them. Allowing the European Parliament to evolve from its humble beginnings not only tested the ‘political waters’ over its role but allowed Member States to adapt to a completely new political environment. The European Parliament had to pick any battles wisely or run the risk of jeopardising support for further reform and empowerment.

## **Treaty of Rome**

In 1958 the Treaty of Rome came into force adding the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM). The European Coal and Steel Community had already proved it was entirely possible for integration to work. With this expansion the agenda diverted away from securing peace towards more focussed economic goals. Nuclear energy was an ideal area to supranationalise because it touched on not only areas where integration had stemmed from but also where the project was to move towards. For example, coal and steel were two of the most important commodities needed to wage war. Nuclear energy produced a new potential weapon while at the same time offering a solution to Europe's growing need for energy. Bringing the production of nuclear energy into the integration project offered a solution to a growing dependency on foreign oil and diminishing coal reserves. While the European Parliament was still able to voice an opinion on supporting further integration in this sector, the real decision-making rested with the larger Member States (CVCE 2012a). As a result, international barriers began to be removed, "the Member States shall abolish all restrictions based on nationality affecting the right of nationals of any Member State to take skilled employment in the field of nuclear energy" (Treaty establishing the European Atomic Energy Community Article 96). Landmark policies were also introduced like the Common Agricultural Policy and the Common Market. Although integration was deepening it was over complicated with the European Parliament now working alongside separate Commissions and Councils in the different communities. The most influential of these institutions, the Commission of the EEC saw Walter Hallstein appointed as President. It is also here that we see a distinction emerge on the guidelines of the treaties and the practice of implementing them. According to Hallstein, "It is first and foremost an 'outline-treaty.' Over wide fields it does no more than formulate a few general guiding principles to serve as the basis of common policies, which have to be worked out and then implemented with constant adjustment to day-to-day situations and problems" (Hallstein 1965, p.727). This does not mean it was a simple negotiation in creating the treaty but it was done so to avoid Member States signing up to complicated supranational commitments. It is worth noting what influences were able to place pressure on the negotiations. For example Sicco Mansholt, Commissioner for Agriculture at the time made great efforts to cooperate with the General Agreement on Tariff and Trade (GATT), forerunner to the World Trade



Organisation (WTO) (Mansholt 1958). Therefore the only real consideration by Member States was what impact integration would have on the international community.

Additionally the Treaty of Rome saw further competence transferred to the Community as the Commission was granted responsibilities in proposing legislation in areas Member States had agreed to integrate. Mirrored alongside this increase, the European Parliament was given its first inclusion in legislative decision-making through the Consultation Procedure. This allowed for the European Parliament to express an opinion on Commission proposals before being adopted by the Council. However Westlake believes the description of this procedure as a legislative power is misleading, “If consultation enables Parliament to influence legislation this can only be done obliquely, through delay, and thanks to a series of undertakings by the other institutions and an open-ended Court ruling (Westlake 1994, p.134). It did however have one important consequence as it enabled the European Parliament to structure itself internally towards scrutinising legislation rather than making it. A professional division of labour was able to emerge with MEPs specialising on issues through a system of committee strengthening the need for effective European political parties.

These parties were able to start generating political support around issues and led to the European Parliament formulating opinions on not just legislative proposals but also on candidate countries wishing to now join the integration project. The Spanish bid for membership in 1962 created controversy as MEPs raised strong objections based on a lack of democratic functioning in Spain. Allowing Spain to send parliamentarians to the European Parliament would go against everything this institution was doing to secure a future of free and fair direct elections of its own. One MEP in particular, Willi Birkelbach, had a fundamental impact on just how Spain’s membership bid was to be treated at a time when France and Germany initially acted positively regarding closer ties with Spain (Powell 2009 p.43). Birkelbach made a direct request to the Commission and Council questioning the consideration of any membership bid from a country where its economic and political philosophy went against that of the integration project. According to Thomas, “Birkelbach’s question elicited great attention in the Council, which had never before been faced with a direct oral question from a member of the Parliamentary Assembly” (2006, p.1201). The

consequences of enlargement policy forced an MEP to behave like a national MP in seeking answers. Even though MEPs at this stage were nominated national parliamentarians it is possible to identify here an aspect of socialization occurring. The interests of the integration project were being pursued against the interests of purely national considerations. It appears that even from this early on the European Parliament was seeking to influence the democratic character of the European Union. Determining whether the European Parliament was the deciding factor in postponing Spanish membership is difficult, although the fact remains that the issue of democracy was now a consideration for the European Parliament in offering support to any candidate country. Spain was successful in acquiring a trade preference agreement though the execution of five alleged terrorists in 1975 hampered the updating of this agreement; “first the European Parliament, then the Commission and, finally, the Council voted to suspend the talks” (Rudnick 1976, p.134). However, Member States were in disagreement about Spanish ties as shown by Rudnick’s discussion on the Netherlands resistance (1976, p.134). It is only through a trade-off with France that support for Spanish ties was strengthened, suggesting a liberal intergovernmental explanation of self-interested states can account for Member State behaviour here.

With the creation of the European Union’s ‘own resources’ in the Treaty amending Certain Budgetary Provisions in 1970 and revision in 1975, the European Parliament was granted four substantial powers in relation to budgetary affairs. Even before it was directly elected it was able to “increase or reduce Community expenditure without Council approval; second, it could redistribute spending between budget sectors; third, it was granted the power of rejection of the annual budget or of supplementary budgets; and fourth, it was given the exclusive right to approve, or not to approve, the way in which the Commission spent money” (Judge and Earnshaw 2008, p.36). Treaty changes to budgetary powers have been relatively infrequent. The European Parliament has enjoyed the power of discharge over the budget, placing it on an equal footing with the Council. For some like Laffan and Lindner the European Parliament has used its position to its advantage in order to secure preferred policy outcomes, “the ‘power of the purse’ gave the EP leverage in its institutional battles with the Council of Ministers and allowed it to promote its autonomous policy preferences” (2010, p.209). Harmony between the institutions is not always the case in budgetary affairs. On three separate occasions the European Parliament has outright rejected the budget. Perhaps it is more than just a coincidence that two out of the three occasions it occurred after direct

elections in 1979 and 1984. As Nugent states, “Major confrontations with the Council, far from being avoided, seemed at times almost sought as the EP attempted to assert itself” (2003, p.205). MEPs in this case may have wished to stamp their authority once elected and set an example in how future institutional relationship should progress.

It is also no coincidence that around this time through eventual expansion of the Consultation Procedure, “By the mid-1970s, Council consulted Parliament on virtually all legislative proposals referred to it except those of a purely technical or temporary nature” (Corbett *et al.* 2007, p.205). MEPs were thus far more involved and confident regarding their ability to at least participate in the adoption of legislation. The European Parliament was also openly promoting further inclusion and with Commission backing, “The Council agreed gradually to extent such consultation to other policy areas. Whether facultative or obligatory, such consultation was rarely more than perfunctory” (Westlake 1998, p.17). With the ability to casually ignore the opinion of the European Parliament, whether the political parties were united or not, MEPs were at the mercy of Member State control. According to Hix *et al.*, “In practice, under the consultation procedure, the European Parliament is no more than a lobbyist of the Commission and the Council” (2007, p.19). Even with its extension into other policy areas the procedure itself remains insufficient as means to allow the European Parliament any real influence. However no alternative was being granted to MEPs and from this perspective limited inclusion is better than none. It was therefore clear, the Consultation Procedure was flawed as a long term solution, “no matter how extensive the possibilities for parliamentary involvement, the bottom line of being able to block proposals or oblige the other institutions to accept changes was lacking” (Corbett *et al.* 2007, p. 206). It would take further steps in the institutional evolution of the European Parliament for this to change.

### **The importance of direct elections**

Within ten years of meeting, the Common Assembly and its one hundred and forty-two members passed a resolution changing its name to the European Parliament on the 30<sup>th</sup> of March 1962 (European Parliament 2014b). Although just a name change, it was symbolic of the European Parliament’s desire to reform and establish itself as an institution independent

of Member State control. With a new title and inclusion in legislative politics MEPs shifted much of their attention towards an article in the Treaty of Rome, “The representatives in the European Parliament of the peoples of the States brought together in the Community shall be elected by direct universal suffrage” (1957, Article 138(1)). It is one thing to declare a commitment to universal suffrage but implementing the goal proved harder than anticipated. The Treaty of Rome goes on to describe that responsibility for creating proposals concerning a uniform electoral system are bestowed upon the European Parliament. Interestingly, although not granted the formal right to initiate legislation, the Member States sought to grant the European Parliament considerable scope in drafting electoral proposals. The reasoning for doing so was not to entrust the European Parliament with responsibility but to avoid national parliaments from rejecting the treaty (Gerbet 1992, p.15). Therefore in line with its obligation under the Treaty of Rome, “Parliament first put forward such proposals on 17 May 1961 (Dehousse report), and further resolutions on this subject were adopted in 1963 and 1969, but to no avail” (Corbett, *et al.* 2007, p.13). The European Parliament spent several years attempting to build momentum and gain support for these proposals and was increasingly becoming frustrated with the lack of progress.

The European Parliament made its feelings quite clear, encapsulated by the Political Affairs Committee where MEPs published its case for direct elections, “It is also meant as a warning to the Governments of member states: we have already waited far too long for the direct election of members of the European Parliament to set a democratic seal on the European Communities [...] the democratic future of our Communities is at stake” (1969, p.5). Use of such strong language expresses the gravity of concern for MEPs where an argument developed challenging the legitimacy of integration without direct elections. However, significant opposition stood in the way of not just direct elections but any further empowerment, most notably former French President Charles de Gaulle who became associated with his desire to ‘suffocate supranationalism’. In a speech given by De Gaulle’s Minister for Agriculture on possible European elections he states, “This would not solve the problem of fruit and vegetables; a parliament could not solve practical problems before which even the experts turn pale” (Faure 1966). For the time being the European Parliament had no choice but to wait for political circumstances to change. Even with its passionate pleas and compelling arguments the European Parliament still remained subservient to the wishes of Member States.

The political will for change could not arrive until a new leader was elected in France. According to Westlake, “De Gaulle’s 1969 departure encouraged the pro-federalists to speculate again” (1994, p.22). This also paved the way for the accession of the United Kingdom in 1973 with its long standing heritage of parliamentary democracy. For some like David Marquand this meant, “The Community’s decision-making process violates one of the central elements in the liberal-democratic political creed to which all nine of the Community’s Governments pay lip-service” (Marquand 1979, p.2). However Marquand’s argument must be projected alongside the fact Member States had faced political pressure from MEPs for several years and not succumb to their wishes. It therefore must be taken into account additional changes introduced by further treaty change as a means to explain growing Member State interest towards direct elections. In 1967 the Merger Treaty consolidated the institutions to create a single Council and Commission which would serve the European Communities (ECSC, EEC and Euratom). With this came the concentration of power and a higher value placed on the possible abuse of that power. The European Parliament knew this and carefully argued, “The role of the Governments in the Council of Ministers is excessive and the part played by the European executive-the Commission-far too modest, Parliament is the symbol both of democracy and of European sentiment. It protects the Communities from technocracy and from regimes in which all the powers are concentrated in the hands of the executive.” (1967, p.19). Appealing to Member States desire for international stability and the protection of their national interest may have been the missing link in gaining their support. It would also coincide with a moral democratic argument as argued by former Commissioner Neil Kinnoch, “The European parliament is directly elected precisely because the 1970s system of sending a delegation of MPs and peers to Strasbourg was manifestly undemocratic and ineffective.” (Kinnoch 2012). Whatever the reason it was no longer a question of if, but a question of how?

Annexed to a report by former MEP Lucien Radoux, the heads of the Member State governments point out, “Since the European Assembly is composed of representatives of the peoples of the States united within the Community, each people must be represented in an appropriate manner” (1975, p.10). With clear support in principle from Member States agreement on exactly which electoral system to be uniformly introduced provided a

substantial stumbling block. With distinct approaches to national voting, creating a uniform system was always going to mean bringing a sense of electoral change to many countries. The solution was to allow for the use of different electoral systems and harmonise this over the longer term. Initially this meant European Parliamentary seats had to be contested through, “political parties whose identity is essentially national; the communications media through which they reach out to their electorates will be almost exclusively national and local” (Jackson and Fitzmaurice 1979, p.17). There was no realistic alternative in how MEPs could be elected at this stage. With backing finally arriving for direct elections from the European Council meeting in 1975, arrangements were made for Member States to implement their voting systems (Council 1976). The most important issue for the European Parliament was that it generated full time parliamentarians with a mandate to initiate electoral reform.

In the United Kingdom a ‘first past the post’ system encourages a winner takes all attitude. Only recently has this system been under any serious threat of change, “the long-term trend from the 1970s has seen many of us decide to vote for a plurality of parties and causes” (Sinclair 2011, p.1). For many European countries coalition building is a norm where proportional representation allows smaller parties to enjoy greater success than in majoritarian systems. For the United Kingdom moving away from majoritarian representation raises sensitive questions at the national level. For Norris when examining electoral systems, “the heart of the debate concerns the central criteria which an electoral system should meet, and whether strong and accountable government is more or less important than the inclusion of minority voices” (1997, p.304). The uncertainty of these minority voices may have raised some concerns for majoritarian system Member States, not used to smaller parties having political influence. Therefore Member States were able to elect MEPs independently of one another at the national level and phase in reform. Even with Government backing in the United Kingdom for a move towards a proportional representative system the House of Commons “declared its preference for a first past the post electoral system”, (Gay 1998, p.13). Nonetheless the resulting elections in 1979 marked an important watershed moment for the European Parliament. It now claimed a source of legitimacy no other institution in the European Union could.

Even with European elections the European Parliament did not transform overnight. MEPs still had to spend many years reforming its own internal functioning and update its rules of procedures in order to develop a continuing smooth transition of yet more change. This placed responsibility for ensuring the interests of the integration project were upheld in the hands of the Commission. According to Commission President, Roy Jenkins in power following direct elections, “Where the line can be drawn in practical terms between the Commission and the member governments was a constant source of aggravation. Some, especially the smaller countries, wanted to push the line forward; others, especially France and Britain, wanted to hold it or even to push it back” (Roy Jenkins 2004, p.181). This highlights the awkward position the Commission faced, especially as it could gain little support from the European Parliament at this time. As Geprges shows “the Commission’s relations with the Parliament are impaired by the fact that its attention is, for obvious practical reasons, concentrated more upon negotiating with the Council or with bodies depending on the Council than upon parliamentary opinion.” (1972, p.13). It was also around this time a report was published at the request of the European Council on the institutions in order to strengthening their functioning and cooperation among each other, particularly given further enlargements were on the horizon. The report found, “The balance of power between Commission and Council has shifted more and more in the latter’s favour and the Commission has lost much of its independent prestige.” (1979, p.49). It would therefore require further reform to ensure the European Commission as the ‘guardian of the treaties’ could function in a manner independent of national control. The European Parliament was an obvious solution to this problem in that the Commission would become further answerable to MEPs.

It is no coincidence following the European Council’s desire for institutional strengthening the European Parliament in 1981 undertook proceedings to vote on the incoming Commission College. After all the European Council’s report stated, “The general concept of Commission answerability to the Parliament is clearly enshrined in the Treaties, and in strictly practical terms it requires no additional grant of powers to the Parliament to make it effective.” (1979, p.59). This new appointment method was formally recognised by the Solemn Declaration on European Union where the enlarged bureau of the European Parliament was invited to be consulted on the candidate for the Commission President. Only after the Commission College was appointed by the European Council shall, “the Commission presents its programme to

the European Parliament to debate and to vote on that programme” (Solemn Declaration 1983, 2.3.5). Eventually this practice was undertaken before the Commission College took their oath at the European Court of Justice. This helped foster a relationship of not only parliamentary control but strengthened the legitimacy of the Commission College mandate and its right to assume office.

The European Court of Justice (ECJ) was also to play a significant role in charting the course of European history beyond swearing in Commissioners. For those who saw consultation as an ineffective method of parliamentary inclusion, the Isoglucose ruling of 1980 can go some way in challenging this perception. 1980 saw the ECJ annulling a piece of legislation adopted by the Council. The reasoning for such a drastic action was simple: Parliament had not yet given its opinion. As stated in the treaties, legislation cannot be adopted unless Parliament’s right of consultation has been fulfilled. According to Varela, “the Court annulled a decision taken by the Council on the ground that it had not waited for the European Parliament’s opinion and stated that the European Parliament’s power to be consulted represents an essential factor in institutional balance intended by the Treaty” (2005, p.3). This led to time delay tactics as the European Parliament attempted to maximise its influence “by delaying its opinions on Commission proposals if it is not satisfied with the response to its amendments” (Smith 1995, p.80). Though time delay tactics can only be so effective and run the risk of jeopardising the European Parliament's efforts in being entrusted with great legislative responsibilities.

Starting from the Isoglucose ruling, the relationship characterising the 1980s, was one of conflict between the European Parliament and the Council especially over budgetary politics. Nugent states, “Parliament was still very much restricted in what it could do: restricted by the Treaty, which gave it very little room for manoeuvre in the major budgetary sector” (2003, p.205). As a result in 1988 the European Parliament, Commission and Council introduced the Interinstitutional Agreement on Budgetary Discipline and Improvement of the Budgetary Procedure. One significant point of this regards the decrease in compulsory expenditure and increase in non-compulsory expenditure; where the European Parliament enjoyed more power. MEPs have often challenged what counts as compulsory expenditure attempting to further increase the area of where their influence lies in budgetary affairs. The very fact the



Council was willing to sign a financial perspective with the European Parliament increased its credibility giving it extra clarification in its attempts to bring greater accountability to the process as a whole. However, the annual budgetary process has lost part of its relevance according to Valera (2005, p.9). Since 1988 there have been tighter controls over spending through various financial perspectives and commitments on the allocation of resources.

Notwithstanding these restrictions the European Parliament can be described as a codecision-maker with the Council in budgetary affairs. It cannot be accepted without the approval of the European Parliament and is, “one of the EP’s most important means for checking the Commission” (Jun 2003, p.422). Discharging a budget has proved to be a long and complicated process. Any arguments to say the European Parliament is simply there to rubber stamp the budget ignores all the successful occasions through financial management that institutions were held accountable. The resignation of the Commission College in 1999 is said to largely have come about from the European Parliament’s scrutiny of budgetary affairs. According to MacMullen, what had started as a routine dispute, “arising in the European Parliament on the final closing of the accounts of the European Community annual budget, had escalated out of control into a humiliating defeat for the President of the Commission and his colleagues” (1999, p.703). Its success in holding institutions accountable through budgetary scrutiny had lasting implications in reforming financial management such as the Kinnock reform package. Though the European Parliament may not have the ability to influence how funds are raised directly it can be shown to participate in positive ways in areas where it has been allocated responsibility. For Lord the European Parliament is highly constrained through the budgetary process, “powers of amendment are only procedurally strong in relation to the fifty four per cent of the budget that goes on non-compulsory expenditure” (2003, p.256). For the most part around half of the budget has been devoted to agriculture, “although its overall share in the budget has been shrinking each year since 1984 (when it was 72%)” (European Commission 2013). But the fact still remains MEPs have a major role to play in approving the funds which keep the integration project operational.

## Single European Act

Further empowerment in real legislative terms would not transpire until a new treaty adoption in 1987. Scully argues the, “Strong lobbying of national governments for greater parliamentary powers bore some fruit in the Single European Act” (Scully 2007, p.178). As a result, the first treaty following direct elections introduced the Cooperation Procedure which was designed to strengthen European Parliamentary involvement. It brought the introduction of a second reading for the European Parliament and MEPs were able to debate the Council's common position once Parliament's first reading proposals were taken into account. Rather than merely being consulted on legislation there was now a system for back and forth debate that pointed towards a desire for bi-cameral decision-making. The European Parliament was now able within a period of three months, “by an absolute majority of its component members, propose amendments to the Council's common position. The European Parliament may also, by the same majority, reject the Council's common position” (Single European Act 1987, Article 7). However it should be noted that the European Parliament was still unable to completely block legislation at this point if the Council was able to find the required unanimity to overrule parliamentary objections.

The Single European Act also built on the European Parliament's role on being consulted over the accession of new Member States with the new Assent Procedure. This effectively granted an all-important veto to the European Parliament although, by this time three rounds of enlargement had already taken place: Denmark, Ireland and the United Kingdom (1973), Greece (1981) Portugal and Spain (1986), all of which left the European Parliament incorporating new parliamentarians with limited influence over the make-up of their own chamber. It could be expected therefore that the introduction of the power of assent would bring an overall endorsement by MEPs. However criticisms were still made vocal, “as Parliament has shown on a number of occasions, the Single Act does not satisfy its aspirations” (Official Journal 1987, C7/109). For a more detailed explanation on the events of the Single European Act Moravcsik stresses the importance of Member States, particularly the influence of France, Germany and the United Kingdom. According to this perspective, “The fact that the member states parried parliamentary pressure with ease certainly casts doubt on the argument that the SEA was necessary to co-opt rising demands for even more

thoroughgoing institutional reform” (1991, p.45). This does support why the European Parliament is seen to be openly critical on some aspects of these reforms. Armed with the power of assent some have argued the European Parliament has used this legislative procedure to influence areas beyond its intended use. For example, with the accession of Austria, Finland and Sweden there was disagreement over the distribution of voting weights in the Council, “MEPs made it clear that Parliament would not give its assent to accession if it contained such a weakening of the Union” (Corbett *et al.* 2007, p.235). The European Parliament was thus linking enlargement once again to the democratic functioning of the European Union.

One aspect often overlooked when considering the history of the European Parliament’s influence over enlargement concerns the importance of association agreements. Rather than apply directly for membership some countries sought closer relations in different forms. According to the European Parliament, “Association agreements were concluded with Greece in 1962 and with Turkey in 1964. Both these agreements aimed at preparing these countries for possible full membership of the Community at a future date” (1980a, p.1). While the European Parliament was granted no formal power over enlargement negotiations until 1983 there were consultation powers assigned much earlier in regards to association agreements. It would take in part the work of Joseph Luns who was the Netherlands Minister for Foreign Affairs to introduce further Parliamentary powers in this area. Known as the Luns procedure, this opportunity for greater participation allowed the European Parliament to be better informed about the state of negotiations. However, as the European Parliament expresses in 1980, “The operation of the “Luns procedure” in practice is inadequate as the information is usually supplied to Parliamentary committees too late for an opinion from Parliament to be considered before the agreement is signed” (1980b, p.2) It is important to identify just how much reform the European Parliament would like to introduce. Different periods in the integration process may reveal different opinions over the same policy area. That is why the European Parliament in calling for change on the way association agreements were conducted put forward; “It is not desirable that Parliament itself should participate in negotiations. Its role is to monitor how its suggestions are put into practice” (European Parliament 1980b, p.7). Such statements clarify how the European Parliament views the most democratic method of arranging these agreements at this time.

Often as a pre-cursor to accession, a candidate country will qualify for funding to help ease the transition of integration. Where this becomes especially important is how candidate funding has been linked with aspects of improving democracy. According to a report published by the European Parliament in 1981, “The accession of Greece, Portugal and Spain to the European Community is also seen as a contribution towards strengthening democracy in these countries” (1981, p.8). This issue of democracy promotion for the European Parliament is significant in that even prior to these countries’ accession there was supranational pressure on candidate countries to function in a manner befitting to current Member States. Thus accession funding, like that of the fisheries investment in Spain and Portugal, has borne real benefits to those concerned. Because of this a parliamentary resolution adopted in 1985 raised concern over this fund, “the Council still has not asked the European Parliament for its opinion on this proposal” (Official Journal 1985, No C 94/77). Such a reminder expressed the proactive approach taken by the European Parliament in working within the institutional framework to influence the behaviour of the Council and support the development of candidate countries.

It is also interesting to see that in 1993 the European Parliament accepted the intergovernmental approach regarding accession negotiations. One opinion in particular stands out regarding enlargement where MEPs passed a resolution, “that as a rule intergovernmental cooperation between the European Union and the other States is currently the realistic and appropriate means of taking decisions” (European Parliament 1993, A3 – 0189/92). However the European Parliament does go on to stress the need for parliamentary accountability as part of intergovernmental decision-making. But it also serves to remind us that as the interinstitutional system has reformed so too has the opinion of the European Parliament. This did not stop critical remarks on the limitations of the intergovernmental approach being made in other areas. As a precursor to Parliamentary support a number of requests were made in order to allow for further accession. One such request stated the Commission President should, “decide on the composition of the Commission” (European Parliament 1993). Ironically therefore, the European Parliament is acknowledging the need for intergovernmental decision-making in enlargement while challenging it in other policies. This allows for a mixed interpretation by theories of European integration where Member State power is reinforced and also seen as a problem depending on the policy.

## **Maastricht Treaty**

With the signing of the Maastricht Treaty the integration project would be referred to as the 'European Union' and economic and monetary union were introduced. The European Parliament's role in appointing the Commission College was further strengthened. Now the whole Parliament was included in the selection process of Commission President and formalising the vote of approval on the whole College to take place before assuming office. One of the lesser acknowledged additions saw a simple yet significant alteration to the Commission College's term in office; it would now run alongside the European Parliament's five year term, signalling further accountability on Commissioners. In theory this meant, "since a newly elected Parliament takes part in nominating the Commission, any significant changes in the EP's composition can be reflected at the Commission level" (Majone 2002, p.383), though just how influential the European Parliament has been in determining the Commission College composition remains to be discussed. Majone may be attributing a certain amount of influence here for the European Parliament, a viewpoint not shared by all. Decker also stating in 2002 argues the central intergovernmental positioning of the European Council and Council of Ministers, "affects the supranational organs (Commission and Parliament), whose appointment is dominated by the undiminished intergovernmental factor" (Decker 2002, p.259). With this empowerment the European Parliament sought to develop its newly found powers by preparing for the inclusion of committee hearings to question Commissioner College candidates on their suitability for the position. Although not able to approve or reject candidates on an individual basis the European Parliament was able to express its opinion openly in letters of recommendation to their President. Furthermore in regards to legislation, the Maastricht Treaty saw the introduction of the codecision procedure. As a result the argument has been put forward MEPs were, "the largest net beneficiary of the institutional changes in the Treaty" (Wallace 1996, p.63). It also creates what Andreas Maurer (2003) describes as the European Parliament being a first chamber legislator. However, as much as this procedure marked a change in the balance of power, it was not without its drawbacks. Evidence from Westlake (1994), suggests the co-decision procedure was far too complex and in some instances resulted in an unacceptable length of time required to pass, amend or reject legislation. For these reasons, the co-decision was

“significantly extended and simplified by the Treaty of Amsterdam and marginally widened by the Treaty of Nice” (Corbett, *et al.* 2005, p.207). The co-decision procedure was a major step in the evolution of powers and with its extension and simplification it increased the number of areas it applied to.

Both the cooperation and co-decision procedure were identical until proceedings reached the second reading. Whereas under cooperation if Parliament rejected the proposed legislation, the Council was still able to adopt it on the premise it could agree by unanimity. This was no longer the case under co-decision and hence fundamentally changed the relationship between the institutions. If agreement could not be made on a proposed piece of legislation the codecision procedure automatically refers the matter to a conciliation committee. This comprises of an equal number of representatives from the European Parliament and the Council. Failing to reach an agreement, which is unlikely, the legislation in question is dropped. It is evident why this allows for the description of, “moving the EU towards a genuine bi-cameral system” (Selck and Steunenber 2004, p.28). The European Parliament now had shared responsibility in the adoption of legislation but also the failure of it.

The Single European Act also introduced, and the Treaties of Maastricht and Amsterdam extended, what is now known as the Consent Procedure, formerly assent. This procedure requires the assent of the European Parliament before decisions can be taken. Unlike other procedures where a proposal can be amended, it must accept or reject the proposal in question as a whole. To further show the rigid parameter of this procedure Nugent states, “In some circumstances the assent requires an absolute majority of Parliaments members” (2003, p.200). In many respects the Consent Procedure can therefore be seen as the simplest of the legislative procedures. It is also used for legislation of a unique nature where the topic in question may be of great importance to the operation of the European Union, such as the accession of new Member States. This gives the European Parliament an obvious degree of leverage as it can block major changes and at the very least ensure the status-quo. The Consent Procedure however, has raised controversy over the way it reaches its outcomes. Criticisms have been made that “the assent procedure is a cruder form of co-decision” (Corbett *et al.* 2005, p.223). This can be understood what may be just as important in rejecting a proposal is why it was rejected. However, it seems under assent this matter has

been overlooked. An argument has also been put forward by the likes of Cini, “A strong revisionist perspective suggested that the cooperation procedure had actually given the EP greater scope to set the legislative agenda” (2003, p.171). This argument can be accepted to some extent as at least in the cooperation procedure the views of parliament were taken into account in the shaping of draft legislation. This might be the case officially in the legislative process, although it is likely that the views of the European Parliament will be well known in advance regarding consent.

Officially the Commission may have the sole right to initiate legislation, though it must be remembered it does not have the power to keep all issues off the agenda. For example, The Maastricht Treaty gave the European Parliament the right to submit proposals, “acting by a majority of its members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required” (Article 138b). This has successfully forced the European Commission to act under the proposals put forward by the European Parliament. The first of which, saw legislation being passed as early as 1994 paving the way for other successful proposals. However the most logical option in influencing the legislative agenda is accomplished through parliamentary committees. The European Parliament can call upon the Commission to take legislative action through producing own-initiative reports. As Varela states, “The EP has organised itself internally as most parliaments in the world, with an eye to keep a balance between the need for leadership structures that guarantee policy coherence, and a degree of specialisation through its committee system” (2005, p.24). The European Parliament’s role in this respect should not be overlooked as it has been successful on many occasions. For example, The Employment and Social Affairs Committee produced many detailed reports leading to the claim put forward by Professor Bercusson that these parliamentary committees “have played an important role in the legislative process” (2003, p.6). This does not imply Member States were unwilling to legislate in these areas but it does highlight the ability of the European Parliament to further effect the direction of the integration project. As Hix explains, “The Council and the European Parliament have developed sophisticated rules to improve their scrutiny, amendment and adoption of legislation, and sophisticated strategies to maximise their influence vis-à-vis each other” (2005, p.79). Therefore in relation to other European Union institutions, the European Parliament has been influenced significantly by the Commission

and Council. Both have sought over the years to strengthen ties with MEPs in order for the institutional framework to produce efficient and democratic decisions.

### **The European Parliament and Democracy**

As pointed out earlier in this chapter empowerment of the European Parliament has been a slow and gradual process. What remains to be seen however is what position this places the European Parliament in regards to the democratic functioning of the European Union. Finding an acceptable balance has been a long and complicated journey for the European Union. Democracy can be a difficult ideology to implement; it is not simply a case of one size fits all. Member States are constantly changing laws in an effort to improve their own system of governance. Sharply criticising the European Union for not getting its own version correct in a fraction of the time can be unjustified. Deciding whether the European Union is suffering from a democratic deficit can be as problematic as defining the very meaning of democracy. According to Follesdal and Hix, “there is no single meaning of the ‘democratic deficit’. Definitions are as varied as the nationality, intellectual positions and preferred solutions of the scholars or commentators who write on the subject” (2006, p.534). Such varied positions are also to be found in the Member States themselves. As Ball and Dagger express, “With respect to political ideologies, we may say that democracy is an *ideal* that most ideologies espouse; but because people have very different understandings of what democracy is, they pursue it in very different ways” (2004, p.20). Therefore as national governments come and go so do their leaders who project their beliefs onto the European Council. As pointed out by Rittberger, “Member State governments who hold a Federal State legitimating belief consider the empowerment of the European Parliament as the key to alleviate the perceived democratic deficit” (2007, p.118). In opposition to such views current British Prime Minister David Cameron pushed through plans for MEPs in his national party to create an anti-federalist grouping, “In doing so he ignored pleas from centre-right leaders across Europe, including German Chancellor Angela Merkel, as well as warnings from some of his own MEPs that they would be marginalised and powerless.” (Telegraph 2009). Cameron’s belief in national sovereignty as a means for European legitimacy has been expressed many times by previous national leaders. This is part of an ongoing debate between



supporters of intergovernmentalism and supranationalism as to which offers the best method for producing a democratic European Union.

Over the years the European Union has witnessed a shift towards supranationalism as a means to legitimise decision-making. It should be remembered this would not have been possible without the support of Member States which has translated into empowerment of the European Parliament. It should also be pointed out that movement for and against support in the European Parliament's role in promoting legitimacy should not be viewed as a weakness. As former President of the European Parliament Hans-Gert Pöttering reminds us, "We all know that democracy gains strength through constant change. We do too. Together we have covered a good part of the way towards creating a forward-looking European Community" (Pöttering 2009). This willingness to adapt to change has allowed the European Parliament to explore new ways in promoting legitimacy. It has even allowed for the creation of political parties which advocate the transfer of powers back to the national level. In fact, a minority of MEPs have campaigned solely based on this point of view, "Former TV presenter Robert Kilroy-Silk says he plans to 'wreck' the European Parliament when he sits as an MEP." (BBC 2004). These views however only represent those on the fringes of considerably smaller political parties. Others instead, question the desire to seek solutions to the democratic deficit by treating the problems in the same it would be nationally, "solving the legitimacy problem by giving more powers to the EP rests on a fallacious analogy with the institutions of parliamentary democracy at the national level" (Majone 2010 p.151). However the European Parliament in many respects is very different from its national counterparts and will always be so. Just as national parliaments are different from one another across the European Union.

Supporters of intergovernmentalism have previously been able to point to the limited influence of the European Parliament regarding what powers it had. However according to Noury and Roland, "when votes carry no consequence, MEPs have less incentive to participate in EP debates and votes. Even when they vote, they will have no incentive to be cohesive because the majority decision will not matter" (2002, p.310). This means empowerment should not only encourage MEPs to participate but also do so in a manner where they can be most effective. For evidence to support this Kreppel provides useful data

in comparing legislative procedures, “There was some improvement for votes under the cooperation procedure, but still nearly 50% of the MEPs failed to participate on average. The overall rate of participants under co-decision, on the other hand, averaged 65%, with the EPP and PES averaging 75%” (Kreppel 2001, p.155). Both the EPP and PES represent the two largest European political parties and judging from this evidence they have been directly motivated to participate through empowerment. This suggests that the consequence of supranational decision-making has resulted in a desire for MEPs to actively engage in the political process. Hix *et al.* build on this by measuring party cohesion and find, “As the powers of the European Parliament have increased, the political parties in the Parliament have become increasingly cohesive, despite growing ideological and national diversity amongst their members.” (Hix *et al.* 2007). Therefore, even as the European Parliament has expanded it has been able to actively strengthen the composition of the political parties.

However, a stronger presence for political parties in tackling the democratic deficit does not satisfy all commentators, “party government as such is losing the capacity to manage and make effective contemporary processes of political representation at the national level, and hence it may well prove counter-productive were it to be introduced at the European level” (Mair and Thomassen 2010, p.21). Furthermore MEPs are still largely elected through national political party systems. Even as Member States have made moves to include greater representation for the European Parliament in decision-making, the core of this representation is controlled domestically. For others, “more power for the European Parliament would probably lead to greater transnational and party-political, rather than intergovernmental, contestation in the EU policy process” (Hix *et al.* 2005, p.211). Either way, political parties have helped structure the European Parliament into the institution it is today. What is certain, without ideological parties there would be less incentive for MEPs to act independently of national interest.

### **The European Parliament and Public Support**

2009 marked only the seventh time fully elected MEPs have represented citizen’s interests. While there is no planned end point for integration the pace of change has raised questions

over the ability of the European Parliament to provide legitimacy. For the German Constitutional Court further integration is questionable, “because it does not believe that the European Parliament can be regarded as sufficiently representative to make decisions as European decisions on the political direction of the Union” (Copsey and Haughton 2010, p.3). Even if the European Union found the perfect democratic institutional relationship this does not guarantee public support and as this ruling reminds us, representation is what makes parliament unique to other institutions. According to Marquand, “In the Western world, the source of political authority is popular election. National Governments, responsible to elected Parliaments, possess not only the sword of power, but the sceptre of democratic legitimacy” (Marquand 1978 p.436). These arguments would suggest that intergovernmental decision-making would be the most appropriate method in the European Union due to the lack of popular support. It is also worth pointing out that trust in the European Parliament has generally fallen in recent years, “41% of Europeans (-3 percentage points since autumn 2012) trust the European Parliament, while 47% (+2s) distrust it and 12% (+1) expressed no opinion.” (European Commission 2013b, p.92). This would further suggest the European Parliament has a problem regarding its public perception, although it should be compared against two important points. Firstly, trust in the European Union’s institutions has fallen as a whole and this may be a consequence of the European financial crisis. Secondly, knowledge on how MEPs are elected is worryingly low among Member States. For example, statistics show only 41% of French citizens and 55% of UK citizens were aware MEPs are directly elected (European Commission 2013c, p.15). In order for the European Parliament to improve on these figures a significant proportion of responsibility for providing awareness to European Union issues must lie with Member States. As the citizens themselves have expressed, they are “badly informed about the role of the European Parliament and its members. Moreover, this is true in all European Union countries.” (European Commission 2008, p.23). What this proves is that the European Parliament cannot be held solely responsible for the failure of elections to gain wide support. Conlan argues alongside this, “The democratic deficit can perhaps more correctly be directed at the national level. It is at the national level that practical issues arise which can either facilitate or frustrate effective national parliamentary scrutiny of European affairs” (Conlan 2013, p.15). It is only with the European Parliament working in cooperation with national actors and institutions that will hopefully allow for these figures to change.

National parliaments tend to enjoy greater electoral turnout and McLaren explains why this might be the case as public support is less about economic or political consequences but rather “fear of, or hostility toward, other cultures” (2002, p.553). A fear of other cultures may be a strong use of language although, for a political organisation to be truly representative it must have the support of its citizenry. Creating a European demos may be the most difficult of integration goals as shown with a record low of only 43% turning out to vote in the 2009 European Parliamentary elections (BBC 2009). Low public turnout has questioned the link between citizens and the elected representatives in parliament. According to Moravcsik, “its elections are decentralized, apathetic affairs, in which a relatively small number of voters elect among national parties on the basis of national issues” (2002, p.604). However it should be pointed out against Moravcsik’s argument that the total number of votes cast in European elections outnumber that of any single Member States’ support. Additionally, one interesting argument put forward suggests strengthening the link between MEPs and the real interests of Member State populations would actually be counterproductive in further integration. For Tsebelis and Garrett, “European citizens on average are much less integrationist than their MEPs; they are also less integrationist than their own national governments” (2000, p.27). However this link is questionable as greater voter participation would likely help stimulate public debate and media attention around European issues helping to inform them on the benefits of integration.

Ironically then, the introduction of European direct elections as a means to combat the democratic deficit has served to highlight the low public support and second order nature of elections. Motivating citizens to vote has been a challenge the European Union cannot overcome with ever deepening integration. For Schmitt, “low participation does not of itself indicate a lack of legitimacy: in second-order elections, it is merely a result of the characteristic lack of politicisation and electoral mobilisation” (2005, p.655). Majone also adds to this line of argument by explaining, “The tendency to equate democracy with majority rule is quite common but it is nevertheless puzzling, since the pure majoritarian model of democracy is the exception rather than the rule” (1998, p.11). However the European Union remains faced with criticism over its inability to raise mass electoral support. Voters are generally more concerned with national politics than the often stated distant and complicated European political arenas, “these elections only seem to become politically visible when citizens view them essentially as mid-term referendums on (typically protest

votes against) the national government of the day” (Tsebelis and Garrett 2000, p.16). Thus, the electorate are supporting national agendas by voting in supranational elections for an institution that has sought to loosen the intergovernmental grip on decision-making. Furthermore, as Steunenberg and Thomassen point out, European elections, “as much as they are contested on national rather than European issues, produce a European Parliament that is surprisingly representative of the European electorate on most issue dimensions” (2002, p.10). Whilst high voter turnout would be beneficial the current state of affairs does not excuse the European Parliament from its position and responsibility to promote democracy. As Schmitt (2005) touches on, lowering voter participation is a problem many Member States are facing nationally. Additionally the term ‘democratic deficit’, “implies that the EU is a polity that represents, or fails to represent, a demos, and is therefore comparable to other polities by definition” (Zweifel 2002, p.834). Hence the European Parliament should continue working towards improving turnout but in the meantime it has produced a democratically elected and politically representative supranational institution. It therefore must represent to the best of its abilities the millions of voters whom did turn out.

The argument surrounding voters and their nationally motivated agendas brings the debate to a new dilemma that, “there is no electoral contest for political leadership at the European level or the basic direction of the EU policy agenda” (Follesdal and Hix 2006, p.552). However since the Lisbon Treaty the European Parliament has a direct influence on the position of Commission President in so far as Member States must take into consideration the outcome of European elections. This can be seen to only reinforce why some citizens vote according to national agendas as European Parliamentary elections still are only an influence on Member States’ decisions. National elections determine not only the make-up of the executive domestically, “they also indirectly determine the composition of the Union’s Council of Ministers and even of the Commission” (Lord 2006, p.678). This leaves some to suggest the European Parliament’s, “role in shaping the constitutional and institutional development of the EU is still more that of an auditor than originator or constructor” (Eriksen and Fossum 2002, p.419-420). In this respect MEPs are restricted by the institutional design and as Eriksen and Fossum (2002) point out further, a parliament’s role is to enforce democratic values regardless of the institutional design, weaknesses and all. This places emphasis on the role of the European Parliament as a vehicle to scrutinise those actors represented in the European Union’s institutions. Just as national parliaments have a role in

scrutinising the work of their governments, “the European Parliament has a special responsibility to ensure scrutiny of the executive, primarily the European Commission but also aspects of the work of the Council” (Corbett *et al.* 2007, p.281) In fact the Lisbon Treaty was in part founded on the need to strengthen the principles of scrutiny, as seen by the European Council meeting in 2001 where Member States first discussed the need for a new treaty. The European Council meeting put forward the argument that European citizens “feel that deals are all too often cut out of their sight and they want better democratic scrutiny” (2001, p.2). This is summed up most strikingly by the behaviour of the European Parliament where its committee system spends a vast amount of time scrutinising the work of other institutions and the legislative proposals forwarded by the Commission. The scale of this process is best viewed through the statistics themselves; “In the last legislative term (2004 – 2009) a total of 447 codecision files were concluded [...] With the considerable extension of the scope of the ordinary legislative procedure under the Treaty of Lisbon the number of codecision files is expected to increase further in the future.” (European Parliament 2012a p.8). Therefore one of the core democratic requirements for the European Parliament to advance legitimacy in European Union decision-making must include effective methods of scrutiny by MEPs. It also strengthens the democratic link that the institutions and actors in the European Union are responsible to the people’s elected representatives in the European Parliament.

### **Classifying the European Union**

As the European Union evolved commentators attempted to categorise it. Caporaso compares the European Union alongside stylized state forms, “the Westphalian state, the regulatory state, and the post-modern state” (1996, p.30). Understanding what the system is can help determine the nature of democracy required and in what ways it can be criticised. Classification can also be a problem, the evolving nature of the European Union has meant in different decades it was concerned with different objectives. For some the best description is seen as an answer to an ever globalised world requiring global solutions. According to Zurn, supranational institutions may respond to the problems of democracy caused by globalisation, however, “it is almost impossible for citizens to hold specific governments or representatives responsible for political outcomes” (2000, p.204). Those favouring a strong role for

supranational institutions in the European Union acknowledge national parliaments are no longer a sufficient mechanism for Member State control. For Follesdal and Hix “European integration has meant an increase in executive power and a decrease in national parliamentary control” (2006, p.534). Where national parliaments once controlled executive decisions, integration allowed the possibility for executives to bypass parliamentary control. For example, “majority voting exacerbates the Democracy Deficit by weakening national parliamentary control of the Council without increasing the powers of the European Parliament” (Weiler 1991, p.2473). National governments may have the mandate to govern but this does not grant them the right to be excused from accountability, but rather is an interesting aspect of modern international politics. Previous regimes were not impacted so heavily by external influences such as foreign political instability. In further developing a supranational approach to this problem the European Union actively engages as an external actor as seen by the intervention of Catherine Ashton, the High Representative for Foreign Affairs, in Ukraine and Syria in 2014.

It is important therefore a means of accountability exists for actors like Ashton who has the potential to significantly alter the balance of power in these countries. This recognised by Ashton herself while addressing MEPs;

“I know how important political accountability is for this House. I am confident that a good framework has been found through the political declaration on political accountability. I am looking forward to the intense dialogue and exchange of information with the European Parliament and will make sure that my collaborators give high priority to this aspect of their work.” (Ashton 2010).

As the European Parliament is partly responsible for the appointment of this position, MEPs have an obligation to ensure ongoing accountability and this has been supported by Ashton’s statement. This was after all why the European Parliament was created in the first place, to hold actors accountable and as Rittberger reminds us the Dutch government, “made its participation conditional on ‘acceptable’ solution to the accountability question” (2005, p.79). Now that the European Union has created this role for Ashton, similar to that of a national foreign minister, citizens can acknowledge clear parallels from the national level. However for Janssen, “the issue of integration may be too difficult, too abstract or not interesting enough for the average citizen to form a well thought-out attitude” (1991, p.468). Integration has certainly complicated matters but this does not mean the views of citizens are subject to an inability to comprehend the political environment they live in. Such an argument only

offers to supply a limited view of the democratic potential of citizens and their interests. For Sanchez-Cuenca it is the, “functioning of the European and national institutions that determines whether the citizens of the member states will accept the basic elements of a supranational democracy” (2001, p.168). Therefore effective accountability of actors will increase citizens’ belief in European Union legitimacy. This explains why the European Parliament not only invites Council Ministers and Commissioners to answer for their actions but in 2011 alone; ”the Commission received from Parliament in total 12093 written questions” (European Commission 2011, p.25). Doing so enforces the requirement that the behaviour of European Union actors’ are held responsible through parliamentary democracy. Along with the acknowledgment over the importance of scrutiny, this chapter places the power of accountability as a principle by which this thesis can judge the European Parliament.

According to Moravcsik (2002) though, the democratic deficit has been overplayed. In line with this intergovernmental perspective the inclusion of the European Parliament does not significantly alter the balance of power. For Moravcsik the European Union gains strength through its intergovernmental design. Supported by numerous constitutional safeguards, decision-making is, “in nearly all cases, clean, transparent, effective and politically responsive to the demands of European citizens” (Moravcsik 2002, p.605). This argument equates that the European Union does not require the same parliamentary restrictions as placed on Member States at the national level. Therefore, according to this perspective intergovernmentalism is capable of providing all the democratic checks and balances required without the need for further supranationalism. The German Constitutional Court did support this argument in 1993 following the signing of the Maastricht Treaty, “the peoples of the individual states provide democratic legitimation through the agency of their national parliaments” (cited Eleftheriadis 1998, p.263). However the European Union has since integrated much further beyond any other intergovernmental organisation before it, making any attempts to classify it extremely difficult. For Lord and Beetham, “the non-stateness of the EU’s political system does not remove the need for it to meet the same broad criteria of legitimacy as liberal-democratic states” (2001, p.443-444). Comparing the European Union to a nation state may offer a useful way of defining the strengths and weaknesses inherent within the organisation; however, it is important the democratic deficit debate does not rely on comparing the European Union to something it only partially resembles.



Instead the European Union's democratic functioning should be judged on the standards it has promoted through successive treaty reforms. Along with the importance placed on accountability and scrutiny the European Council makes clear, "The European Union derives its legitimacy from the democratic values it projects, the aims it pursues and the powers and instruments it possesses. However, the European project also derives its legitimacy from democratic, transparent and efficient institutions" (2001, p.4). This still remains true today and explains why the European Parliament has fought so hard over the years to improve the transparency of the decision-making process. This was made abundantly clear when the European Parliament stated "Transparency is, in any case, the only means of achieving, even if indirectly, some degree of control by Parliament over the activities of the Commission's committees" (European Parliament 1997). While aiding the fight against possible corruption it has wider implications that Curtin explains: "public deliberation and or debate can be considered the single most important element in the assessment of democratic quality" (2007, p.407). This explains the change in the mentality of Council voting which was previously a secretive affair, "records were kept within the Council, but were in no way publicly accessible, nor were they even widely distributed to member governments" (Hayes-Renshaw *et al.* 2006, p.162). Through efforts to become more transparent the Council now operates more openly. However, even with such efforts the democratic deficit seems to always find an avenue for inclusion as Heisenberg explains, "paradoxically, the main justification to have consensual decision-making rather than hard voting has always been to solidify the legitimacy of the EU in the eyes of its citizens by not making the losers apparent" (2005, p.82). This ultimately strengthens the argument for supranationalism as the most effective method for democratic functioning as the self-interest of Member States should not come before the interests of the European Union as a whole. There would have been little hope for European citizens to comprehend European politics when MEPs themselves were unable to find out how the Council reached its decisions. Closed meetings and limited access to documents can no longer be justified when matters have not just national but international consequences. In the European Parliament's pursuit of further transparency and wider access to documents; "The UK Labour Party MEP steering the legislation, Michael Cashman, said revealing how ministers had voted at EU meetings would improve accountability" Here a direct link between transparency and accountability is made as the strengthening of one leads to improvements in the other. It is for this reason the ability of MEPs to promote transparency

must be included in the criteria, along with accountability and scrutiny, as a means to determine the European Parliament's influence on the legitimacy of the European Union.

## **Conclusion**

In offering a clear chronological narrative of the European Parliament's evolution alongside the development of the European Union's institutional framework this chapter was able to highlight the growing need for legitimacy as powers transferred to the supranational level. It was also able to confirm what realistic expectations can be attributed to the European Parliament given it is unable to provide greater electoral turnout in European elections without increased support from the Member States themselves. This formed part of a wider debate over the disagreement between intergovernmentalists and supranationalist on the most effective means to provide legitimacy in European Union decision-making. However even as national leaders such as Cameron have argued in favour of a transfer of authority towards the national level the European Union has pursued supranational involvement, specifically through the European Parliament as a means to provide previously lacking democratic qualities. In examining the Treaty of Lisbon including the actors responsible for its creation and implementation, this chapter proposes further accountability, scrutiny and transparency are the qualities being pursued in order to enhance the democratic functioning of the European Union. This was shown with the focus MEPs are placing on the accountability of the Commission with direct questioning and the restrictions placed on Ashton's behaviour as High Representative for Foreign Affairs in promoting the European Union as an external actor. The European Parliament also participates in the scrutiny of hundreds of legislative proposals and carefully examines the opinions published from Council and Commission meetings in order to formulate its own response. Only through the promotion of transparency as an additional European Union value has this been possible as previously the European Parliament was limited in the knowledge it could acquire from meetings subject to intergovernmental restrictions. It is therefore these three credentials that will allow the remaining chapters to establish how successful the European Parliament can be in promoting legitimacy.

## **Chapter 3: Theoretical Framework**

### **Introduction**

The integration of European countries generated a great debate surrounding the understanding and explanation of this phenomenon. Several schools of thought emerged and a number of scholars became interested in European integration theory. These theories were undoubtedly tested against a variety of changes being implemented by Member States in their efforts to function collectively, leading, ultimately to the rise of some, decline of others and modern variants being produced of these competing theories. The term 'European integration theory' can be somewhat misleading and requires further clarification. For example, the European Union is not in a continuous state of integrating. There are periods of motivation, stagnation and serious concerns over disintegration, particularly in relation to the European single currency at the moment. According to Wiener and Diez, "European integration theory is thus the field of systematic reflection on the process of intensifying political cooperation in Europe and the development of common political institutions, as well as on its outcome. It also includes the theorization of changing constructions of identities and interests of social actors in the context of this process" (Wiener and Diez 2005, p.3). This broad definition offered by Weiner and Diez covers not just the concept of occurring integration but also the outcomes it produces and influences it therein generates. However different theories prioritise different aspects of such a definition as will be elaborated further in this chapter.

It stands to reason that these competing theories come into direct conflict with one another. Some by their very nature not only question other theories' claims but dismiss outright their usefulness entirely. These theories have guided decades of scholarly work and served to develop further areas of research and new avenues of investigation. This thesis deals directly with many of the issues contested by such European integration theories. It will be necessary to identify which theories in particular allow for the aims of this thesis to be best accomplished and expressed using the most appropriate theoretical framework. As Rosamond reminds us on the undertaking of any scholarly research, "the conduct of that research requires the selection of approaches and/or theories which enable the resultant knowledge to

be ordered meaningfully” (Rosamond 2007, p.231). Because of this it will be important to not only outline the competing theories that offer particular relevance to this research but also defend why any such theory has been included or excluded as a result. This will allow for the most appropriate theoretical framework to be adopted in order to interpret the findings produced by this thesis.

## **Functionalism**

Understanding the origins of functionalism is best described from within the context with which it emerged. Europe was faced with a big problem: its nations had a tendency to declare war on each other. A generation of writers and thinkers sought answers; some favoured federalism as a possible solution, the United States was a case in point. But for Mitrany this answer did not offer the solution to the problems faced by Europe, as, “in form and working it is a combination of rigidities-rigid in its framework, whether geographical or ideological; rigid in its constitution, which has to be formal and unchallenged; rigid in its general life, because of the limits and obstacles it places to fresh common action” (Mitrany 1948, p.353). What worked for the United States of America was not going to work in Europe's case and it was only just beginning to move away from colonialism. Functionalism viewed human possibilities in a positive fashion and viewed the state as a damaging influence on the potential of the people. According to Kurt, “functionalists assert that all national divisions, potential dangers and enemies are created by states. That is why; states have to be taken under control in order to bring peace” (Kurt 2009, p.43). The integration of Member States encourages those nations to avoid conflict as a reliance on each other emerges, particularly on those areas being integrated. This functional need to by nation states to cooperate gives an indication of why it has been termed functionalism, prospectively offering a solution to ensuring not just European peace but also allowing its people reach their potential previously hampered under a national system.

This approach offered one of the most sustained challenges to state-centrist theories. Its most influential figure is David Mitrany, holding the belief international integration could offer lasting peace and that conflict was not inevitable, but rather was fueled by nationalism. The

functionalist viewpoint argues, with the failure of the League of Nations, due to its limited powers, “the same mistake should not be repeated: henceforth, nations should be tied more closely together” (Bache and George 2006, p.5). Whether it be a lack of power or as American Historian Thomas Bailey argues, “it became essentially a European league, in part aimed at Germany” (1963, p.2). A point Mitrany is in agreement with that in order to be truly successful an actively participant United States of America was a necessity (Mitrany 1965, p.124). For functionalists it was just a matter of finding the correct formula that offered the prospect of a stable and secure European continent. Economic and political cooperation was the solution without the need for fully blown federalism. Mitrany rejected the view of a world government due to the risks associated with individual freedom and the notion that such a concentration of power ran the risk of corruption. He also rejected, “the creation of regional federations, believing this would simply reproduce national rivalries on a larger scale” (Bache and George 2006, p.5). The answer therefore was the removal of national divisions and rivalry and a rejection of the false hope offered by federalists.

Mitrany had no desire for the nation state to be removed in the process of European integration. Rather, saw an inherent inability of selfish nation states to provide for the welfare of citizens. Instead this would be achieved through establishing a system where nation states became less and less able to act independently and are hence tied into cooperating with each other in order to prosper. Authority would be transferred over to the supranational level; a number of institutions would manage the dynamics of international politics bestowed upon them by nation states. According to Mitrany, “the task itself can never be defined and limited in advance but must remain a continuous variable reflecting changing situations” (1965, p.112), therefore, creating a functionalist set of institutions. This has to reflect the changing party system that will undoubtedly produce new leaders and coalitions, shifting power in the nation states making up the organisation. Such a system would lead to a process of gradually shifting public support from the national to the supranational level where needs can be better provided. This is perhaps another benefit compared to a federal system where it would be more difficult to adapt to the possibility of new members. The European Union has proved it can successfully introduce new Member States without damaging the stability of the overall project. According to Mitrany, “a federal constitution is a balancing act in regard to a whole range of social and political factors: with any change in membership the whole structure may have to be re-organized and probably re-negotiated” (1965, p.141). Therefore, federalism

while being an entirely valid concept in some cases is not an answer to the problems faced by European nation states. It was the task of nation states to, “loosen the hold of the territorially sovereign conception of political relations, and find a way to world peace” (Mitrany 1965, p.142). By establishing such a system under functionalist values, less nationalistic tendencies will be adopted by governments and citizens alike. Rivalries will fade through the emerging integration and dependency, establishing peace and prosperity.

### **Neofunctionalism**

Ernst Haas draws on the writings of Mitrany in further developing the functionalist approach. Though it should not be forgot Haas also examined integration in various other parts of the world such as Africa and Latin America where integration attempts were also unfolding. However it should be pointed out these were largely unsuccessful due to the limitations of these nation states to begin with, “Integration in Africa has been largely symbolic” (1970, p.618).and in Latin America “Countries confident that their size and resource base make them relatively independent of regional partners take a very slight interest in regional integration” (1970, p.619). Whereas neofunctionalism in the early stages of European integration appeared to offer a successful method of explaining the events unfolding. As a result it was considered at the time the dominant theoretical approach. It offered testable predictions about the future of integration seeing the erosion of state influence as loyalties shifted supranationally, though this never transpired. Schmitter states, “no theory of regional integration has been as misunderstood, caricatured, pilloried, proven wrong, and rejected as often as neofunctionalism” (2004, p.45). With differing amounts of success and failure it remains an influential ‘other’ against which theories can be portrayed against. In some ways it can be seen as a more modern attempt at international stability than colonialism. According to Ernst Haas, “in the post-colonial era, new methods must be found for facilitating the spread of modern culture and for protecting the international system” (1964, p.4). Colonialism and now the European Union are seen as a function of nation states in order to accomplish a variety of goals such as stability. The European Coal and Steel Community emerging out of such a need and Member States co-operate some parts of their economic sectors in order to secure their own needs. According to Moravcsik, Haas swept aside “the traditional ‘realist’ view that European integration was primarily about military balancing

against the USSR, the USA, or Germany” (2005, p.352). Instead elite groups within the nation state concluded it was in their best interests to push for integration.

Through integrating certain economic sectors a basic supranational institutional design is required in order for it to function, such as the creation of the High Authority, now known as the Commission. In order to provide a level playing field for Member States, the High Authority was designed with independence in mind, though the independence of the Commission has been called into question especially given the control Member States have over the appointment of the Commission College. According to Rosamond the strategy of neofunctionalism was to create a, “high authority without the distracting baggage of national interests to oversee the integration process and give it the ability to act as a sponsor of further integration” (2000, p.51). Independence from national ties is an important aspect of the theory as institutions are viewed as pursuing their own agenda allowing them to push for further integration. In order for such supranational actors to have the ability to act independently the very system by which they are elected would appear to matter a great deal. These predictions offered by neofunctionalism seem to fall short in explaining the still largely influential role Member States appear to play in controlling the European Union's agenda on further integration. Member States through the European Council set the long term vision of the organisation and the Council has a vital part to play in the legislative process. Nothing of significance can get accomplished without the backing of Member States.

What was predicted by neofunctionalism, as Member States initially agreed to integrate, was a process known as spillover. This consists of a process where integration occurring in one area creates pressure for related sectors to also become integrated. Once the initial move by Member States in Europe began to integrate coal and steel production and exchange, it thus spilled over into other areas. For Risse spillover explains, “to a surprisingly large degree why ever more policy sectors have become integrated and communitarized during the European integration process” (2005, p.299). It is important to note the different forms of spillover identified in the neofunctionalist theory. Functional spillover, as described by Moravcsik occurs when, “cooperation in certain sectors of the economy (or society) creates technocratic pressure for cooperation in adjoining sectors, thereby propelling integration forward” (2005, p.352). Therefore, spillover can be seen as a process that not only leads to further integration,

but it does so in order to achieve more efficiently the original integrated goal. Political spillover is another form identified and can be expressed using the European Parliament's power to censure the Commission College. For example, when Member States agreed to set up the Commission there was a need for agreement on how this supranational institution could be controlled. This is an unintended consequence of the original integration that Member States accepted. Spillover was explained by an on-going process, "suggestive of automaticity – the idea that the logic of integration is somehow self-sustaining, rational and teleological" (Rosamond 2005, p.11). It appeared however, that rather than being the 'snowball effect' that neofunctionalism predicted integration was made up of stops and starts with phrases like 'spill-back' and 'muddle about' becoming associated with neofunctionalist attempts at explaining integration. Moravcsik points out, "it had not generated uniformly stronger centralized institutions but a curious hybrid still heavily dependent on unanimous consensus among governments" (2005, p.354). Spillover seemed problematic in explaining integration over the long-term and was criticised heavily for this.

One consequence of spillover is elite socialisation concerning supranational loyalties. Over time actors involved in the decision-making mechanisms at the supranational level will develop European loyalties. With decisions often expanding over many years and areas, complex problem-solving methods may be developed and over time actors may come to value and protect the system produced. It is in the interests of national elites to group themselves within a supranational framework with other likeminded groups from different Member States. In order to influence and participate in the decision-making process as more authority is transferred from the national level. Member state governments will thus find it increasingly difficult to follow national arguments as supranational elites and actors make participating in further integration the most functional choice. Yet Charles de Gaulle the head of one member state government did follow a national argument and gained success with the protection of a national veto also known as the 'Luxembourg compromise'. Under functionalism the transfer of loyalties was seen as a relatively simple process. Neofunctionalism incorporates a more complicated relationship with the sensitive impact national citizens and politicians can play in determining the transfer though De Gaulle showcased further integration was not a given. After all as much as functional needs are determined by economic prosperity an attachment to the national system must also be factored. This transfer of loyalties Haas predicted and failure of it to occur on any meaningful



scale has led state centric theories to criticise neofunctionalist miscalculations to the importance of the Member States in controlling integration. Moravcsik argues that citizens are too limited in their ability to become politically aware of a whole new level of political learning and mobilization, “existing concerns, of still greater importance in the minds of citizens, must be swept aside to make room for EU issues” (Moravcsik 2006, p.226). Certainly the European Parliament has witnessed this problem in that its elections are portrayed as a second-order contention to that of national elections.

### **Intergovernmentalism**

Intergovernmentalism emerged in the 1960s through the writings of Stanley Hoffman and provided an alternative to the neofunctionalist theory. The theory proved useful in explaining the pace of integration and Member State authority. It challenged federalist assumptions that the EU would eventually transform into a super-state and neofunctionalist predictions that integration would lead to an independent supranational system. As Hoffman reasons, “such regimes, in exchange for curtailing the states' capacity for unilateral action, serve to preserve the nation-state as the basic unit in world affairs and actually help governments perform their domestic tasks” (1982, p.25). It would have been difficult during the initial creation of the European Coal and Steel Community to introduce such an organisation without a strong national influence. This was recognised by the founding fathers of the European Union like Jean Monnet, even though Monnet desired a supranational organisation in place of an intergovernmental one. Rosamond reminds us, “this was to be achieved less by grand design and more by stealth” (2000, 53). In this view the initial intergovernmental stranglehold could be grappled away over time. Just how much of this stranglehold remains debatable as the influence given to supranational institutions within this theory is limited. The real authority lies in the European Council and Council represented by the Member States.

Intergovernmentalism has strong associations with realist and neo-realist theories of international integration which emphasise the self-interest of states. Realist theories view international politics as taking place in an anarchic environment where only nation states have the capability to provide stability on the international level. Thus integration does not

diminish their control over national sovereignty, “the Community helps preserve the nation-states far more than it forces them to whither away” (Hoffman 1982, p.21). In this sense the European Union is described as a process of cooperation rather than integration. Cooperation occurs as common solutions are required to solve common problems. As such, from an intergovernmental perspective, “European cooperation implies at most a pooling or sharing of sovereignty, rather than any transfer of sovereignty from national to supranational level” (Cini 2007, p.102). Rather than ideological reasons, cooperation is viewed as a logical step for nation states in securing their independence. The argument is made cooperation is not seen as anything special, in fact it would be more surprising if states were unwilling to cooperate. Therefore Member States in the European Union, through cooperation, established independent institutions like the European Commission to safeguard the interests of the whole. It has a mandate to act independently although other theories have criticised its ability to do so, especially through the direct way Commissioners are elected. Member States have an advantage over Commissioners in securing them re-election or positions available domestically creating a conflict of interest for the independency of the institution. The very nature of intergovernmentalism places Member States in a position of political control over the Commission (Thomson, 2008; Wonka, 2008), while others view the Commission as an independent pro-integrationist, attempting to pursue its own supranational agenda (Burley and Mattli, 1993). As the only directly elected institution the European Parliament is a unique position within the EU’s institutional framework to offer a credible alternative and viable candidate to help appoint the Commission College.

Understanding intergovernmentalist reasoning behind any Member States’ desire to integrate is viewed through a weighing up of not just the costs and benefits associated but also the impact on national sovereignty. As self-interested actors, Member States can only retain power by retaining national sovereignty. A complete transfer of sovereignty to the supranational level goes against intergovernmentalist predictions. States are not treated as equals all desiring the same goal. Intergovernmentalism includes the premise that all Member States are unique with important cultural differences, “the movement can fail not only when there is a surge of nationalism in one important part, but also when there are differences in assessments of the national interest that rule out agreement on the shape and on the world role of the new, supranational whole” (Hoffmann 1966, p.867). This helps explain variation in Member States desire to integrate or why opt-outs might be the outcome of negotiations. This

is where Hoffman's distinction between the realm of 'high' and 'low' politics adds to this argument. Low politics was technocratic and in the economic sphere, shown by the original title of the European Union in that coal and steel were clear motivations in encouraging cooperation. However, high politics is an area that touches on national sovereignty and according to the intergovernmental ethos of state centrism, Member States would not participate in such cooperation. According to Hoffmann, "Theoretically, this may be true of economic integration. It is not true of political integration (in the sense of "high politics")" (Hofmann 1966, p.882). This distinction has been criticised by many commentators as shown by the work of Christian Kaunert through the introduction of the European Arrest Warrant, "European integration is advancing into the political realms of the once unthinkable" (2007, p.389) namely high politics. For Hoffman this had led him to further clarify the distinction between high and low politics, "this can be misleading if it suggests that foreign policy and defence are always and exclusively "high", which is not the case,"(Hoffman 1982, p.29). It is also explained this is similar for 'low' economic policies, in times of economic crises they can become important policy areas. The importance of an issue depends on its saliency and the value the nation state places on it in order to secure its sovereignty.

Deep rooted criticism of intergovernmentalism lies in concerns over its view of supranational institutions like the European Parliament. The view is generally held that such institutions are denied from having any influential role in the decision-making process. Instead institutions are developed in order to benefit Member States and help lower transaction costs in making international cooperation viable. In more recent years however, as Wiener and Diez argue, "studies generally concede that transaction-cost models do a poor job of predicting patterns of delegation to the European Parliament" (2005, p.142). This is because the European Parliament has been delegated powers in an attempt to bring greater democratic principles to the European Union, rather than simply keeping Member States locked into a system of compliance and efficiency.

## **Liberal Intergovernmentalism**

The most influential of state centric theories has proved to be liberal intergovernmentalism, formulated in the early 1990s by Andrew Moravcsik. As a benchmark theory it views the decision-making process from a two-level system of influence at the domestic and supranational level. On the national level policy preferences are influenced by the interests of dominant groups within society. These interests are then shown in the international bargaining that takes place between states, “governments are assumed to act purposively in the international arena, but on the basis of goals that are defined domestically” (Moravcsik 1993, p.481). There is a demand for international integration from within the national level. The European Union thus supplies the demand with the institutional design controlled by Member States. This built upon intergovernmentalism that has seen state interests being influenced by a nation’s perception of its position relative to other states. Moravcsik has focused much of his attention on the three economically biggest states of France, Germany and the United Kingdom. Such countries have more capability to in effect ‘buy off’ smaller Member States with concessions enabling the preferences of larger Member States to be achieved. However, Daniel Finke disputes that such practices are feasible in an enlarged European Union, “when the Treaty of Maastricht was negotiated (1991), the total GDP of Germany, France and the UK outweighed that of the remaining nine member states by a factor of 1.8” (2009, p.469). Now the European Union has 27 members and looks set to continue with expansion plans. Any influence larger states may have had at the bargaining table will therefore be diluted.

While earlier forms of intergovernmentalism stumbled in explaining the move of authority away from Member States, Moravcsik has developed an in genius method of explanation. Moravcsik argues, “the unique institutional structure of the EC is acceptable to national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs, permitting them to attain goals otherwise unachievable” (1993, p.507). This paradoxical claim that European integration can actually strengthen office seeking Member States can be explained in two ways. Firstly national governments within the Council are able to reach compromises and agreements with little constraints imposed from institutions or national parliaments. Secondly, once agreements are reached they are given legitimacy

through international agreement and present “domestic groups with an ‘up or down’ choice” (Moravcsik 1993, p.515). This helps to also explain recent enlargements of the European Union as states, “have celebrated their regained sovereignty by declaring their determination to join all these sovereignty-constraining West European institutions” (Wallace 1999, p.504). This builds on the argument put forward by Hoffman that while the traditional structure of the nation-state was not rendered obsolete it did requiring some adjustment. As Hoffman argued the nation-state continues, “even though some of its powers have to be pooled with others, and even though many apparently sovereign decisions are seriously constrained, or made ineffective by, the decisions of others” (Hoffmann 1982, p.35). Liberal intergovernmentalism thus manages to adopt the basic principle of the primacy of Member State authority and puts a positive spin on the necessity to integrate.

Institutions can set up areas for compromise on difficult issues and provide arenas for such ideas to be expressed. Member States become locked into this process and non-compliance is discouraged and made all the more difficult under an institutional framework that promotes deliberation to resolve disputes and provides judicial properties to ensure impartiality. Without the institutional structure that the European Union offers transactions costs would make cooperating difficult, especially since recent enlargements further increased the number of Member States required to reach an agreement. The major disagreement with other theories of European integration concerns the influence, or lack of influence, that institutions have in the decision-making process. As shown, empowering institutions like the European Parliament can bring stability benefits to the Member States. However Moravcsik does concede that issues regarding empowerment of the European Parliament are not purely based on advantageous calculative preferences, “In assigning powers to the European Parliament (EP), national preferences are less predictable or more dependent on ideology” (Moravcsik and Nicolaidis 1999, p.61). Admitting ideology can impact upon the preferences of Member States does equate to admittance of a major weakness in the theory. Preferences in this regard by liberal intergovernmentalism is still formed at the national level rather than manipulated by supranational influences. According to Moravcsik, “outcomes that contravene the interests of a single Member State, taken in isolation, do not constitute decisive evidence against the intergovernmental view” (1993, p.514). It would only be viable to speak of a serious challenge to the intergovernmental structure of the EU if supranational actors were to

challenge the interests of the Member States over the long-term rather than in isolated instances.

Moravcsik views the Commission as, “exercising the role of little more than a facilitator in respect of significant decision-making” (Nugent 1999, p.510-511). Such a view has attracted particular criticism especially as Article 17(3) of the Treaty on European Union explicitly states the Commission should be independent of Member State influence and Commissioners should be nominated on their competence and commitment. If the Commission imposes little more than a facilitator role then it can be argued Member States are failing to elect competent Commissioners. While Moravcsik does include a greater possible supranational influence than Hoffman, it is still an area of criticism for liberal intergovernmentalism. One would expect, with such a lack of independent influential institutions for the European Union to be stigmatised with a democratic deficit even from liberal intergovernmentalists. However, Moravcsik has cleverly countered such accusations with claims that legitimacy is derived from its component states, “on its respect for their sovereignty, and on its ability to serve their purposes” (Lord and Magnette 2004, p.185). Such statements suggest there is no desire for a European state to eventually develop as predicted by neofunctionalists. Moravcsik makes his feelings towards this theory perfectly clear; “it is generally not right or wrong to speak of neofunctionalism being true or false; it is simply meaningless” (Moravcsik 2005, p.350). Instead the European Union gains strength through its national Member States sovereignty. Even after adjusting for this though, it should not stop the European Union being as democratic and legitimate as possible. This does not have to come at the expense of domestic input but rather compliment a framework Member States are integrating within.

What role Moravcsik does equate to supranational institutions is enough to provide the European Union with the necessary legitimacy it requires, agreements are reached by consensus at many different stages and as such no policies can be brought in through the ‘back door’. Suggesting the mere symbolic involvement of the European Parliament in the appointment of the Commission is enough to ensure democracy and the will of the sovereign Member States is adhered to. There is no need for the European Parliament to have a strong role in determining the make-up of the Commission. Member States who are democratically elected at the national level are able to elect competent Commissioners without the need for

any counterproductive supranational input. This challenges the view that the European Parliament has been empowered as a result of the democratic deficit. Rather the European Union does not impact upon enough salient issues in order for a mobilisation of participation in European elections. This highlights the contrast with neofunctionalist predictions that with greater integration and transfer of power, loyalties will shift to the supranational level. According to Moravcsik, the failed Constitutional Treaty only reinforced the stability and success of the European project, “even if it had passed, the draft constitution would have instituted only minor reforms. It tinkered with an existing constitution rather than promulgating a new constitutional order” (2006, p.236). Even with the introduction of the Lisbon Treaty then, which possessed many of the Constitutional Treaty proponents; it still does not endow the European Parliament with a substantial increase in power. Critics of Moravcsik’s theory express that while liberal intergovernmentalism may express well large substantial decisions that shape the future of the EU, the ordinary workings is very different, “liberal intergovernmentalism is much less able to explain the way in which the EU works in matters of day-to-day politics” (Cini 2007, p.112). For an answer to the influences which shape these day-to-day events our attention must turn to other theories with alternative explanations.

### **New Institutionalism**

The European Union is a heavily institutionalised organisation. Between the official institutions a complex relationship of actors and interests form a political system developed over many years of negotiated integration. While integration theorists spent many years focusing on motives for integration or predicting possible endgames there now remains, “the nature of the beast” (Bache and George 2006, p.23). Milestones in European integration have taken place and institutions exist with potentially great power and influence. The European Parliament operates in a framework neofunctionalists predicted would contain a greater transfer of loyalties. Liberal intergovernmentalism concedes the European Parliament has the ability to influence though not to the extent national interests are diluted significantly and integration is driven by Member States. In these respects, “While the two paradigms have much to say about process, they are unable to capture the sheer complexity and dynamism of the emerging Euro-polity” (Rosamond 2000, p.105). However new institutionalism provides

an alternative school of thought this thesis cannot overlook as a means to interpret the institutional framework. Besides its core value that ‘institutions matter’ it would be wrong to think of new institutionalism as one theory. Rather, “beyond a core shared interest in institutions broadly defined, new institutionalism spreads out in different directions” (Nugent 2003, p.489). Hall and Taylor (1996, p.937) identify three differing strands of new institutionalism and will serve as a basis to discuss this theory further. It also highlights a growing debate that has emerged in explaining the decision-making process between state-centrist and supranational viewpoints. But as further clarification will make clear these different strands contain similarities and distinctions on the influence and role of institutions like the European Parliament.

### **Rational Choice Institutionalism**

Rational choice institutionalism is concerned with the constraints placed on actors by institutions, “in trying to understand the behaviour of political actors it is important to identify the parameters that are set by the fact that they are acting within a specific framework of rules” (Bache and George 2006, p.24). For example, the ability of MEPs to influence enlargement policy is effected by the structural rules put in place by the treaties and their relationship with key decision makers. Institutions are set up in order to lower transaction costs which will increase efficiency and help guarantee obedience by all actors involved as institutions place restraints on behaviour. Hall and Taylor (1996, p.945), make reference to the ‘tragedy of the commons’, an analogy that shows with the introduction of a formal structure provided by institutions, all of the involved actors can benefit. Whereas Checkel states, “institutions are a structure that actors run into, go ‘ouch’, and then recalculate how, in the presence of the structure, to achieve their interests” (1999, p.546). Both show that institutions provide an arena where actors can obtain more desirable outcomes. The creation of an institutional framework thus allows Member States to engage in negotiations that involve risk and this risk is lowered by the presence and necessity of institutions. Smaller and potentially more vulnerable Member States can be assured through the successful working of the institutional framework that all actors are treated equally. If any one Member State was able to control the supranational system previous enlargement rounds may never have occurred through loss of credibility.



Behaviour may be structured around the institutional framework but the preferences of the actors are viewed in terms of the 'calculus approach' assuming, "individuals seek to maximize the attainment of a set of goals given by a specific preference function and, in doing so, behave strategically" (Hall and Taylor 1996, p.939). Institutions structure the interactions of actors allowing them to reduce the uncertainty of others behaviour. This will affect how an actor behaves given they know there are limitations from the institutional framework in how others will behave. When uncertainty is reduced it enables for greater success in agreements being made benefiting all those involved. Institutions encourage compliance and deviation from the institutional arrangements is discouraged. Rational choice institutionalism acknowledges actors will disagree and explains their presence in the first place. If Member States were to constantly agree on policy there would be little need for such a complicated institutionally-driven European Union. At the most basic level, "Commonly it is assumed that different people negotiate differently, and that assumption tends to become an attribution, so that people disappoint when they do not confirm" (Zartman 1999 p.2). It might seem skeptical to assume that European nations require such a complex organisation to cooperate but it should not be forgotten European nations had mixed success in cooperating prior to the European Coal and Steel Community. Transaction costs have certainly been lowered in that the threat of war between these nations has vanished. The benefits of the institutional system should not be forgotten in that Member States now battle out over policy and deliberate their deadlocks. From this perspective institutions offer the Member States a forum to achieve their goals and compromise on preferences.

Given the limitations placed on supranational institutions and their ability to influence the agenda it is not surprising that comparisons have been made with liberal intergovernmentalism. According to Scully, "Moravcsik follows a rationalist approach in viewing international institutions as existing primarily to overcome problems of coordination among nation-states and to help embed 'credible commitments' where cooperation is potentially beneficial, but subject to breakdown owing to cheating" (Scully 2006, p.24). Actors are viewed as rational with self-seeking interests and preferences that are formed exogenous to the institutional process. Therefore institutions do not impact upon an actor's preferences; they merely act as an intervening variable that effect how actors attempt to

achieve their goals. As Nugent (2003, p.490) notes, Member States will change the institutional structure in order to enhance the decision-making process. In this sense legislative empowerment of the European Parliament can be attributed to the needs of the Member States and not the ability of MEPs to manipulate domestic preferences. Member states have certainly been more willing to alter the intergovernmental decision-making process. The use of qualified majority voting (QMV) in the Council has brought with it increased efficiency in decision-making. For example, it can surpass dissenting Member States and their previous ability to block proposals outright under unanimity. It forces those member states outvoted under QMV to alter their behaviour. Seeking alternative possibilities to influence such as attempting to gain support in other institutions like the European Parliament that over the years has become included in virtually all areas of decision-making. As long as the European Parliament is functioning to promote accountability towards actors in the decision-making process the formulation of policy is thus legitimate, more transparent and scrutinised by directly elected parliamentarians. Without a serious challenge towards the long-term policy preferences the European Parliament can be viewed as serving the needs of the supranational system.

### **Historical Institutionalism**

Historical institutionalism as the title suggests, stresses that political relationships should not be viewed in once instance alone “This scholarship is *historical* because it recognizes that political development must be understood as a process that unfolds over time. It is *institutionalist* because it stresses that many of the contemporary implications of these temporal processes are embedded in institutions – whether these be formal rules, policy structures or norms.” (Pierson 1996, p.126). By this argument intergovernmental actors might very well start off in a strong position but institutions have the ability to alter this relationship as processes unfold over time. According to Bache and George, “their approach argues that decisions are not made according to an abstract rationality, but according to perceptions and within constraints that are structured by pre-existing institutional relationships” (2006, p.26). When Member States originally participated in the institutional structure of the European project they were not, neither could they be, fully knowledgeable about the consequences of such interactions. Member states became locked in and as a result of logic ‘path dependency’

emerged. Institutions were originally created for Member States self-interested reasons and eventually became, “locked into and institutionalized in politics” (Checkel 1999, p.547). Member States future choices were thus constrained by ones made in participating in a supranational organisation. This incorporates the notion that institutions may perform a task and it may even perform it well. But due to path dependency it may not be the most rational or functional way to perform that task. Thelen describes it well in that politics, “involves some elements of chance (agency, choice), but once a path is taken then it can become “locked in,” as all the relevant actors adjust their strategies to accommodate the prevailing pattern” (Thelen 1999, p.385). This means that even though Member States preferences are not influenced by the institutions they are restricted by the decisions their predecessors made in establishing them.

Institutions are resilient, difficult to reform and, “one of the central factors pushing historical development along a set of ‘paths’” (Hall and Taylor 1996, p.941). The European Union has been subject to many voices and motivations for reform and accomplishing this has often been a long drawn out process. Even with a large number of MEPs calling for the European Parliament to be represented in only one building in Brussels it is restricted in the initial decisions to have two. While arguments can be made it may be more functional to work full time from one building alone there appears to be more at stake than seeking the most efficient behavioural process. According to Dimitrakopoulos, “even when there are calls for change, they are assessed on the basis of conceptions and images of ‘appropriate action’ that are shaped by a longer-lasting historically defined process” (2001, p.408). Once actors have become susceptible to the lock in effect and future options are restricted, unfavourable decisions may be forced upon actors as removal from the institutional design may be too costly. It is important to understand the historical context in which the institutional design was created. As Rosamond (2000, p.117) reminds us, the European project was rooted in context after the devastation of the Second World War. Thus the creation of a particular set of institutions created would affect the subsequent development path that the European Union would follow. For historical institutionalists, such creation points are critical in understanding, “how such normative and ideational ‘matter’ is loaded into institutions at their inception” (Cini, 2007 p.125). However determining which creation points are of significance becomes a subjective matter and can lead to claims that even relatively small events can have a large impact in shaping outcomes.

## Sociological Institutionalism

A burgeoning interest in sociological institutionalism has been taken on by political scientists, especially given that the institutional framework now interlinks actors in a complex dependency of responsibilities, restrictions and opportunities to influence. This strand shares clear parallels with social constructivism (Jenson and Mérand 2010, p.78; Rosamond 2000, p.119), though Finnemore argues sociological institutionalism has a much more detailed theoretical framework as, “Sociologists specify the substantive content of social structure” (Finnemore 1996, p.327). Institutions include a much more broad definition in this instance to include, “not just formal rules, procedures or norms, but the symbol systems, cognitive scripts and moral templates that provide the ‘frames of meaning’ guiding human action” (Hall and Taylor 1996, p.946). This culture of norms and values forms an important element in understanding the interaction of actors and the decisions produced. In sociological institutionalist terms, “Here, preferences and institutions are said to coconstitute each other through complex iterative processes involving, among other elements, socialization and learning” (Jupille and Caporaso 1999, p.433). Whereas rational choice institutionalism forwards a ‘calculus approach’, sociological institutionalism favours a competing ‘cultural approach’. In this instance actors do indeed act strategically like the calculus approach, however they are also influenced by other factors such as the impression the institutional design has left on their identity and socially constituted values. Sociological institutionalism views an actor’s preferences as endogenous, thereby effected through the very structure created to conduct a function and becomes part of the actor’s culture. It thus asserts, “the influence of social context, which shapes or even ‘constitutes’ social actors – defining their identities and goals” (Schofer *et al.* 2012, p.58). Actors are now exposed to an institutional setup where the European Parliament has the potential to shape preferences and empowerment only seeks to strengthen this potential as explained in this perspective.

An actor’s strategic rational behaviour will therefore include more than just a desire to increase their materialistic values or a desire to increase efficiency. According to Checkel, “the effects of institutions thus reach much deeper; they do not simply constrain behaviour. As variables, institutions become independent – and strongly so” (1999, p.547). In 1989 March and Olson coined this as the ‘logic of appropriateness’ (cited Rittberger 2005, p.17).

This is in contrast to the ‘logic of consequentialism’ where under rational choice institutionalism actors make choices strategically in order to secure the best possible outcome for their desires. This may explain why, in reference to the European Parliament, authority has been delegated from Member States to the supranational level. They were responding to concerns about a democratic deficit by enhancing the social legitimacy of the entire organisation including the Member States. As Hall and Taylor show, “organizations embrace specific institutional forms or practices because the latter are widely valued within a broader cultural environment” (1996, p.948). This is linked into Rittberger’s (2005, p.18) comments about the creation of institutions themselves where isomorphic processes have a part to play. According to this argument the social environment influences the creation and empowerment of the European Parliament. It cannot be explained by functional needs alone and requires a broader look into how experiences at the national level may impact upon what is acceptable at the supranational level. Radaelli shows that in searching for sources of legitimacy isomorphic processes have been used by the European Union; “the Treaty of the European Union has transferred elements of the German model to the whole of the EU” (Radaelli 2000, p.35). Sociological institutionalism goes beyond what might be perceived as the most efficient development of interaction. Institutions like the European Parliament not only incorporate cultural significance but by interacting with other institutions and actors portray this on those involved.

### **Theoretical Approach**

As a result of the previous discussion on theories of European integration each offers their own unique explanations for understanding the decision-making process. However throughout the thesis thus far, it has become apparent that the Member States have remained in a consistent position of authority even as other institutions like the Commission and European Parliament have fluctuated. It would therefore be unwise to avoid the stark advantages liberal intergovernmentalism offer as a means to interpret the following research and more importantly, the outcomes of the case studies. This does not mean to say it will be useful as a standalone theory in explaining the behaviour of the European Parliament. However it does account for much of the institutional outcomes this thesis has already dealt with. For example it has been made clear one of the great problems for the European Union

has been engaging with the citizens it represents. According to Moravcsik there is no empirical reason to believe, “opportunities to participate generate greater participation and deliberation, or that participation and deliberation generate political legitimacy” (2006, p.221). With falling numbers in European Parliamentary elections neofunctionalist predictions of a transfer of loyalties as a result of empowerment has failed to transpire. However liberal intergovernmentalism does acknowledge there have been instances where decisions have been taken based on ideology rather than logic alone. This leaves the possibility that new institutionalism may offer an alternative form of explanation where Member State authority has been successfully challenged.

Such a challenge relates directly to the research question itself where this thesis is trying to establish how influential the European Parliament can be in providing a means of legitimacy. As Member States are in a privileged position of power it therefore stands that any European Parliamentary influence would be in contrast against Member State control. Many liberal intergovernmental arguments stem from an interpretation of the treaties and as such remain to be tested against the practical operations of institutional interactions as conducted in this thesis. It is not enough to form a conclusion based on the wording of a treaty document and in this case it is insufficient to judge the European Parliament on the Lisbon Treaty. There are a great deal more complexities associated with the implementation of a treaty than the negotiating of it where Member States naturally have a dominant role. Along with the lack of interest among European citizens in supranational politics this translates into a situation where “the media generally do not regard the EU’s activities as newsworthy” (Strath and Kaye 2009, p.3). However as has been stressed earlier this thesis shall examine the functioning of the European Parliament relative to the political reality MEPs find themselves within.

The most important point that has been discovered from liberal intergovernmentalism would therefore be to what extent is Moravcsik correct in stating the European Parliament is only able to exert partial influence. If the proceeding case studies therefore find that this is the case, liberal intergovernmentalism will be found to remain the most effective theoretical approach in European integration. However if and where European Parliamentary influence is effective it will not be enough to simply acknowledge this as a weakness in Moravcsik’s

theory. Rather a competing theory explanation must be included in order to interpret the evidence in any meaningful way. As Rasmussen and Toshkov have pointed out, “The existing literature has demonstrated clearly how the EP has played a very active role in the development of its own competences over the years” (2011, p.71). Clearly there is room for interpretation on both sides of the argument regarding the importance of national actors and competing supranational agenda. An issue that has not escaped the attention of Farrell and Héritier (2003) as they state the move from a debate between intergovernmentalists and neofunctionalists towards rational-choice and constructivists has occurred over the years. With such variation it appears there is no grand alliance over which theoretical approach best describes aspects of European Union studies. Therefore liberal intergovernmentalism will be tested against grand scale decision-making where it has been so successful but also in the realm of everyday politics. As mentioned this research question is also concerned with the examination of the European Parliament as a provider of democratic legitimacy. Again liberal intergovernmentalism has put forward strong arguments that even with parliamentary empowerment Member States have remained a key source of legitimacy. However this thesis has proposed accountability, scrutiny and transparency are vital prerequisites in order for the European Union to operate democratically. In this respect, the Member States have found to be inadequate as a sole means of providing these values in the past. It is by Member States own admission that democratic legitimacy has been part of the reasoning behind European Parliamentary empowerment. Therefore in relation to the issue of legitimacy a supporting theory will be required to supplement the questionable explanation of liberal intergovernmentalism alone. This will be especially useful considering the extent of which evidence gathered from MEPs have been included in forming a significant portion of the proceeding case studies. It is with this evidence that a major weakness in liberal intergovernmentalism might be exposed as “some approaches have been too state-centric and too rationalistic, unable to capture the processes of institutionalisation in European politics, the complexities of decision-making and the incremental changes in identities and attitudes” (Kelstrup and Williams 2000, p.3). However this thesis makes a distinct effort to approach the research question from a perspective beyond the formal positioning of intergovernmental forces alone as this does not account for any possible instances of supranational socialisation. In doing so events will be examined as they actually occur rather than what on observation from the treaties of the European Union can tell us alone.

## Methodology

Now that a theoretical framework has been identified, this leads the discussion towards finding an appropriate methodology for gathering data. A widespread debate has emerged over the strengths and weaknesses of both quantitative and qualitative approaches as a method of inquiry. However due to the nature of the research question, quantitative methods were ruled out as a primary method because of the desire to examine behaviour where in depth details could be explored. This meant utilising qualitative research methods through semi-structured interviews as the most effective means to gather evidence. In doing so this thesis was able to explore issues beyond principle of action alone, “Unlike quantitative research which relies on numbers and data, qualitative research is more focused on how people feel, what they think and why they make certain choices.” (British Library 2014). This is not to say quantitative methods have not been used successfully in European Parliamentary research. A number of authors have incorporated the use of roll-call votes as a way of interpreting the behaviour of the European Parliament. However exploring data using the number of times MEPs voted provides little clarity on the influence of the European Parliament, which this thesis is concerned with. Also throughout the thousands of questions posed by MEPs towards the Commission and Council substantial overlap exists as well as the existence of euroskeptic actors merely attempting to frustrate democratic functioning. Therefore semi-structured interviews allowed for interviews to be conducted around the input of the interviewee. By doing so I had the flexibility to explore questions further that elicited an interesting response. This was especially useful with parliamentarians due to their ideological positioning and interest in different aspects of political events being discussed.

In order to gather reliable and relevant data using semi-structured interviews a number of issues had to be taken into account as this method comes with its own risks. First of all the impact of my own ability to conduct interviews had to be of an acceptable standard as “The researcher is thus an active player in development of data and of meaning” (Ritchie and Lewis 2003, p.139). Such obstacles were overcome through training courses regarding using interviews in research and the development of communication strategies. Additionally there was a variety in time lapse from events being discussed to the time when interviews could be arranged. For example, with the case study on the Schengen Agreement the process was



ongoing and remained fresh in the working of the European Parliament, however in relation to the case study of Jeleva several months had passed before all interviews could be conducted. In the end this did not become a problem that impeded the collection of data but it was a consideration in the planning of interviews. In order to minimise the impact all interviewees were made aware of the topics that would be approached in the interview itself. Furthermore interviewees were offered a list of the semi-structured questions prepared for the relevant case study. Only in a handful of cases did interviewees wish for this information in advance with the vast majority being at ease in answering questions as there were no sensitive issues or questions of a personal nature up for discussion. It also proved useful to conduct background checks on interviewees in order to become familiar with what comments they have previously made on the issues. This proved particularly useful as the purpose of choosing semi-structured interviews was to enable flexibility throughout the interview and allow for discussions to go beyond information already in the public domain.

Additionally interviews were carried out in a wide variety of locations ranging from quiet offices to busy cafes. It was always left to the interviewee to decide on a place for the interview as the “Researcher's presence has a profound effect on the subjects of study” (Hughes 2006). By doing so I believe I was able to offer an environment where the interviewee was most comfortable and able to build a rapport in preparation of questioning. One of the most well-known disadvantages towards qualitative research methods is the length of time involved in gathering the data before making sense of it. However this was not an issue in this research as interviews were planned to occur during the annual parliamentary schedule where MEPs were most likely to answer questions. The heads of both the European Parliament Information Office in the United Kingdom and Scotland provided insightful knowledge and support in meeting with MEPs. Field trips to both European Parliament buildings in Belgium and France were undertaken to not only meet with MEPs but experience first-hand the environment plenary decisions are debated and voted upon. Actors from both the Commission and Council have been interviewed in order to strengthen this research by including those directly responsible for relations with aspects of European Parliamentary work. In only one case study was it necessary to interview candidates on the national level which provided useful material in how actors judged initial contact with the European Parliament. This wide range of institutional opinion ensured the data being collected was not bias in favour of one institution alone.

There was always a danger with political matters being discussed that a self interested bias may appear during questioning with MEPs due to their party affiliation. For this reasoning a number of actors from different political parties were interviewed in order to corroborate the evidence gathered. It was also useful to include additional sources of information in order to build a more accurate picture of events and triangulate the data gathered. The first of which was to incorporate aspects of quantitative research through data collection on legislative proposals. This form of data triangulation has the benefit of helping “the researcher to generate a rich source of field data with internal checks on its validity” (Hoque 2006, p.482). While this thesis develops centrally around qualitative methods of research it has been advantageous to incorporate additional quantitative methods. As a legislative proposal travels from committee stage to plenary there are a number of statistical references relating to requirements for voting procedures and possible adoption at various readings. However with a greater use of informal methods of decision-making and many parliamentary votes taken by a show of hands, quantitative data has become a less reliable source of information on its own in relation to European Parliamentary affairs. Therefore in order to provide further validity a multiple approach method of sources was used in order to provide credibility to the use of semi-structured interviews.

The first step in doing so involved actually witnessing the events or reading the official documents related to the case studies. By watching Commissioner hearings and European Parliamentary committee meetings I was able to validate interviewees were not exaggerating events towards their own political disposition or deviating from opinions they had earlier expressed in the heat of the political event. One of the advantages of European Union affairs is the wide availability of parliamentary work in that it is recorded both in the form of video and transcripts depending on the event. More specifically official documentation on European Parliamentary work is now more accessible than ever before and accessible in several languages. The treaties creating and subsequently reforming the European Union offer valuable details on the principles and guidelines for the structure of the entire integration project. Legislative proposals, interinstitutional agreements and numerous forms of correspondence between the actors and institutions are all published in the Official Journal of the European Union. In producing agreed texts, the European Parliament also catalogues its various drafts and correspondence involved in its legislative observatory. These serve to provide an invaluable primary source of information that has not always been publicly

available in the past. As a result of such freely available information in recent years and opportunities to witness the decision-making mechanisms first hand, a large number of media articles and scholarly work has been produced, providing access to a vast collection of secondary information. Both not only serve as a means to investigate the areas outlined but also as a means to discover supplementary opinions by the actors involved. Additionally one of the benefits associated with research into the political arena is that politicians are often extremely vocal actors by nature, eager to express their opinions ultimately included in public record either through the media, scholarly work or independently published material by the actors themselves. As the vast majority of MEPs are members of political parties both on the national and supranational level they operate collectively in a system designed to be heard and develop strategies to communicate their opinions. It is quite common for European Parliamentary press conferences to take place on important issues, freely available online. All of which offer a substantial selection of information that has been harnessed in an effort to diversify and thus strengthen findings.

All communication with interviewees was conducted in English apart from one with Zuzana Brzobohatá MEP where the use of a translator was used in parts of the interview. Rather than being a weakness to the collecting of information, this enabled Brzobohatá to answer some questions in her native tongue in far greater detail than would have been if English was used entirely. At no point did interviewees avoid any questions put to them particularly as the questions did not relate to politically delicate matters. This was assured through external checks being conducted on my line of questioning prior to interviews taking place where strict ethical standards were taken into consideration. In fact, in all occasions interviewees were more than willing to answer all questions and there was no instance where a topic could not be discussed further with time permitting. There were four instances where other people were present for the interviews themselves, including the use of one translator. In all cases these were political aids to MEPs giving no input other than a polite reminder of time once the interview was coming to a conclusion. It was often the case that with MEPs from the larger political parties I would make arrangements for the interview through their political aids. Only with the most senior parliamentary positions did it prove difficult to arrange interviews. However I was able to secure interviews with substitute candidates as high ranking parliamentarians were not always available. Those MEPs from smaller political parties and even independents did tend to provide more time in interviews and were at times

more critical of the decision-making process although this is understandable giving their position as MEPs in opposition to the values of those parties in power.

## **Conclusion**

It has been the purpose of this chapter to outline the most relevant theories of European integration in order to identify the most appropriate for use as an explanatory theory for this thesis. Several theories currently exist surrounding European Union politics however this thesis requires a suitable perspective based on the goals of the research question itself. Additionally just as no one theory can explain the functioning of national politics, neither can this be accomplished in the European Union. Ultimately this led to the realisation that Moravcsik's liberal intergovernmentalism appears to be the most appropriate theory given the discussion in previous chapters regarding the evolution of the European Parliament and central role of the Member States. Moravcsik has thus made a convincing case based on the previous functioning of democracy in the European Union and the interpretation of treaty reforms. However this chapter acknowledges the need to be aware of competing theories and their possible use as findings are made clear in the proceedings chapters and case studies. This is particularly the case once the values being promoted in the Lisbon Treaty have been unravelled as decision-making moves away from intergovernmental priorities. More specifically, these theories will be tested against the data collected through a methodology focusing on qualitative research methods through semi-structured interviews. As this chapter has shown, this was favoured over a competing quantitative method where concerns have been raised regarding this use in exploring European Parliamentary affairs. In doing so a number of considerations have been taken into account in order to support the validity of data collected, actors were thus interviewed across a number of political parties and institutions with steps taken to ensure high ethical standards were met. This will allow for the reasoning behind political actors' behaviour to be explored and considered as a direct implication on the democratic functioning of the European Union.

## **Chapter 4: Appointment of the Commission College**

### **Introduction**

Following elections to the European Parliament a process can begin to appoint a new Commission College. The power of investiture represents one of the fundamental responsibilities of the European Parliament. More specifically MEPs elect the President of the European Commission and approve the College of Commissioners en masse. In order for the European Commission to fulfil its role as ‘guardians of the treaties’, independent of national influence, this appointment process shapes the direction of the whole European Union. The following chapter will examine the European Parliament’s role in the appointment and possible removal of the Commission College. It will do so by first offering a literature review on the subject where disagreement has emerged over the role of the European Parliament. This will be followed by a breakdown of the steps involved in the election of the President-elect of the Commission and then the appointment of the College. Included within this is a case study on the nomination of Rumiana Jeleva as a Commissioner in 2010 and the resulting political fallout that erupted. Doing so will highlight the strengths and weaknesses of the European Parliament in this process with the inclusion of new data that previous literature has not so far examined. Finally, the chapter will offer a discussion on the power of MEPs to censure the Commission College and its attempted use thus far. It will be found that the European Parliament is capable at times in promoting the democratic functioning of the European Union through its power to appoint and remove the College however, it has a number of criticisms this chapter is able to expose.

### **Literature review**

In examining the preferences of actors in relation to those who select or appoint them, Hug argues, “characterizations of the Commission having preferences that are much more in favor of integration than the member states are hardly warranted” (Hug 2003, p.59). Therefore relying too heavily upon intergovernmental interests in appointing the Commission College

may not be in the interests of the European Union. It is important to remember Hug (2003), examines the appointment process prior to the changes brought forward in the Lisbon Treaty. This altered the institutional design discussed and therefore, according to the principle-agent relationship, would impact on Commission preferences. For Egeberg, rather than suggesting the Commission favours an integrationalist agenda or is subservient to member state interests, “Commissioners tend to champion the interests that are inherently linked to their respective briefs” (2006, p.11). With such confusion and concern surrounding this principle-agent debate this might explain why the European Parliament has made such an effort to be involved in the process. For Majone the, “EP intends to influence the distribution of portfolios among commissioners” (2002, p.384). How successful the European Parliament has become at this in the latest Commission College appointment remains to be seen. Thomson reminds us, “The legitimacy of an institution partly depends on the perceived fairness of the outcomes it produces” (2008, p.188). Therefore, it is essential that the Commission functions as an independent institution unbiased in its policy preferences. Especially as Thomson (2008) suggests with the upcoming likely reduction of Commissioners, Member States may make more of an effort than ever before to ensure nominations are sensitive to their countries interests. With this in mind it is ever more pertinent to ensure the independence of the Commission College if it is to function independently as the treaties intended.

Hug’s (2003) work helps develop an insight into why Member States delegate so much authority to the Commission and not the European Parliament, as a monopoly was held over the appointment process of Commissioners. Evidence is shown that the Commission's policy position is not always in line with that of the Council. Where disagreement has occurred a number of causes are suggested. The most interesting is that of possible socialization, opening to the possibility that institutions like the European Parliament impact on the behaviour of Commissioners. However, Hug (2003) does not suggest this any more than other factors: Commissioners may be merely attempting to extend their own areas of competence. Similarly for Napel and Widgren (2008) the reasoning behind close cooperation between the Commission and the European Parliament could be explained as a result of both institutions going through the same supranational socialization. After all, treaty changes did see the terms in office of both the Commission and European Parliament linked together. Though Bots (2008) view of the Council and Commission's principle-agent relationship is

similar to the view of liberal intergovernmentalists like Andrew Moravcsik, that while the Commission is set up to initially act independently, it is too weak to escape the control of the more powerful member state interests. Yet authors like Schmidt (2000, p.49) show the Commission to be in not such a weak position relative to the Council as previously mentioned scholars have made out. Nevertheless through a discussion of the initial appointment process the view of Bots (2008) is one where the entire process is encapsulated as an intergovernmental affair. Even with a more prominent role for the European Parliament, power still resides with Member States. This does seem to correspond in some ways with Napel and Widgren's argument that, "treaty reforms formally gave the European Parliament teeth, but a big wooden block remains stuck between them" (2008, p.22) hence Member States interests have further reason to remain dominant. After all Bots expresses the view that the European Parliament's role in approving the European Commission is a purely symbolic one, coupled with the observation, "Commissioners without any party-affiliation have become scarce in the College of Commissioners" (Bots 2008, p.15). On the basis of this the Commission College's ability to act independently of national interest is weakened. However, the European Parliament is centered on party politics and the implications of ever more party-affiliated Commissioners remains to be resolved. It has the potential to offer a clearer link between the make-ups of both these institutions.

This would provide an interesting area of further research into the consequences of Commissioners more closely associated with the political parties of the European Parliament. For Wonka though Member States are positioned with a, "strong inclination to appoint Commissioners who share a government's party affiliation. They also appoint Commissioners on whom they have considerable information from earlier performances in the political arena" (2007, p.185). This however may have the consequence of striking ideological divisions as well as the possibility of Member States seeking sympathetic Commissioners. Wonka (2007) and Thomson (2008) in this respect both appear to suggest the Member States can benefit from nominating candidates from a similar ideological position. For Napel and Widgren (2008) emphasis is placed on showing higher profiled Commissioners have become nominated as compared to previous Commissions, leading to claims made by the authors that this can actually suggest an increase in Council influence rather than a diminished one. Döring however makes a connection between both Commissioner party-affiliation and profile, "it cannot be statistically shown that the

importance of a Commissioner's party affiliation has increased over time. It has been a constant pattern that most of the Commissioners are members of parties in domestic governments" (2007, p.225). Additionally the distinction is made by Döring between the strategy of large and small Member States. It is shown smaller states have a greater incentive in nominating Commissioners affiliated with the ruling national party. The danger would be Member States appoint Commissioners based on political motives rather than competence and for this reason the European Parliament can justify holding Commission hearings.

Curtin (2007) argues, transparency will not only increase citizens understanding of the EU as a whole but that it can also enhance the acceptance of the institutional framework. After all public support for the integration project has been widely discussed (Eichenberg and Dalton 2007; Gabel 1998; McLaren 2002), and remains a problem at least trying to be resolved through increased transparency and deliberation. It would be worse if the European Union was not addressing the problem, but attempts are being made to fix it. This sentiment is shared by Risse and Kleine (2007) in the importance they place on healthy public debate on political issues as a means to legitimise the decision-making process and rally support. This links in with a democratic argument put forward by Sanchez-Cuenca that, positive opinions towards European integration will increase as European institutions improve their capability to perform and citizens lose faith in their national institutions ability to perform. The argument of the article is skillfully tied into that of democracy. According to Sanchez-Cuenca (2000, p.148), "individuals value the integration enterprise when the supranational institutions work efficiently from the democratic point of view". It is well documented that the European Parliament suffers from a lack of popular support among its citizenry compared to often first-order national elections (Hix and Marsh 2007; Hobolt *et al.* 2009). What Sanchez-Cuenca accomplishes is making a vital link that through institutions, like the European Parliament acting as competent political vehicle, will aid in a transfer of loyalties to the supranational level.

In this sense the Council appears to get the best of both worlds by agreeing that the European Parliament should conduct Commission College hearings. For Eriksen improving democratic principles in the European Union requires improvements in its public sphere, "only with a European-wide public sphere in place can the requirements of democracy beyond the nation



state be met” (2005, p.342). Though hearings of Commissioners can be seen to increase transparency they still need to be an effective means of scrutiny in promoting the legitimacy of the Commission and linking directly-elected parliamentarians to the appointment process. For Decker and Sonnicksen the very nature of how MEPs are elected affects their ability to provide legitimacy to the appointment process, “Thus a prerequisite for true parliamentarization of the appointment procedure would be the Europeanization of the EP elections” (2011, p.173-174). Given that the Lisbon Treaty only makes slight changes to the appointment process of the Commission College the impact these have on the European Parliament's ability to influence remain to be seen. This argument links somewhat into Follesdal and Hix's (2006), that the current electoral control over the two most important institutions, the Commission and Council is too removed. Even with the European Parliament involved in the Commission College appointment it would seem to not go far enough in tackling the intergovernmental nature of this process. One example mentioned concerns the selection of Commission President. If the power of nomination was transferred over to the European Parliament perhaps voters would have greater desire to participate. This would shift authority directly away from Member States to a system where policies, through the European Parliament, are responsive to voter's preferences. The view of Magette certainly aligns in some ways to this in that as long as the Commission, “considers itself to be a body designed to bypass political conflicts and forge compromise before public deliberation takes place, the politicisation of the EU will remain very difficult” (2003a, p.13). Opinion between scholars appears to vary a great deal over this appointment that only happens once every five years. However this one procedure gives the European Parliament an opportunity to showcase its authority in a very public manner. Whereas legislation may fall and candidate countries may come to be rejected this is not the case with appointing the Commission College as one way or another agreements must be reached.

### **Appointment of the European Commission**

As six Member States integrated in the 1950s they established an autonomous institution central to the operation of the integration project. From its inception as the High Authority and its development into the European Commission this institution has remained pivotal in securing integration for the European project as a whole. In order to remain connected to the

Member States a College of Commissioners managed the decision-making responsibilities at the most senior level of the European Commission. With each round of enlargement the College has been altered and currently includes one nominated candidate from every Member State. This has created considerable debate surrounding just how an ever expanding Commission College should be composed in order to ensure it does not become unfit for purpose. It is therefore of principal concern how these positions are appointed and by what democratic standards. Having a directly elected European Parliament without a democratically appointed executive order would undermine the whole process of decision-making. For some like Roland Vaubel, “all EU legislation has to be proposed by a body that is neither elected by a parliament nor accountable to the public” (2009, p.27). This may be true in some respects and it highlights well just how critical some commentators can be over the functioning of the European Union’s institutions. It is opinions like Vaubel that represent the integration projects biggest challenge in promoting itself as a viable democratic system of governance. It will be important to address these criticisms but more importantly understand the true nature of how a Commission College is appointed. It is far less complicated to criticise the European Union by simply stating what the organisation does not do. Such information does not further our understanding of the process and for this reason it will be critical to examine what actually occurs. Further than this the input of the very actors participating in the appointment of the Commission College are central to this examination. Fiona Hall MEP for example stresses European Parliamentary involvement from the very beginning of the appointment process. When a nomination for Commission President is made, “that nominated candidate must then be elected by the European Parliament by a majority of all MEPs, not just a majority of those present voting. The newly-elected president will then appoint other Commissioners who will themselves be approved by the EP” (Hall 2009). The involvement of the European Parliament in this process has focussed more attention than ever on how the Commission College is formed. It is through this opportunity to examine the investiture process a conclusion can be drawn on what benefits European Parliamentary involvement brings.

## A Brief History

Previous Commission College appointments have generated numerous examples of the influence and limitations of the European Parliament. Rocco Buttiglione is an often well stated example where controversial comments made during the hearing process were taken unfavourably by MEPs. This resulted in a high-profile clash with Italian Prime Minister Silvio Berlusconi unwilling at first to back down on his selection of Buttiglione. In 1994 Pádraig Flynn was criticised over his allocation of woman's affairs within his original portfolio as a candidate for Commissioner. However, as the hearing process made its opinion clear over the matter, "sharp criticisms of an individual nominee (Pádraig Flynn) by the committee did lead to the President adjusting his portfolio" (Corbett *et al.* 2007, p.270). The European Parliament does not possess the ability to remove candidates on an individual basis and has been criticised at times for its inability to do so. Such examples highlight the capabilities of the European Parliament in respect to imposing its wishes on the European Council and proposed Commission President. This leads the discussion on to the most recent case concerning Rumiana Jeleva as a candidate for Commissioner in 2010. Jeleva's failed attempt to gain the support of MEPs has had implications on how future candidates will now be scrutinised. As a result, this case must be analysed in greater detail in order to determine the influence of the European Parliament as several issues surrounding this study cannot afford to be overlooked. These examples have done more than lead to the exercising of authority but to the development of Parliamentary stature. With the appointment of the Commission College in 2010 the European Parliament has put in place an altered method of scrutiny for future appointments. Examining these changes alongside the most recent appointment will aid in determining whether the European Parliament merely acts as a facilitator for Member State wishes. When controversy has arisen over candidates it can serve as the catalyst for change. Bill Newton Dunn one of the longest serving MEP's for example expresses his opinion on change by stating; "what the Parliament would like to see is a President elected for Europe eventually by popular vote or initially by the Parliament then the Commissioner chooses his cabinet" (Dunn 2010). Clearly there is an appetite with some MEPs for further change in the appointment process. It is essential then the European Parliament adds to the democratic character of the European Union as further empowerment will rest on its ability in the present.

## **Electing the President-elect of the Commission**

Before the involvement of the European Parliament in the investiture of the Commission College the process was a much simpler process. Some of the top appointments now command highly influential positions of authority and the post of Commission President is as important as they come. Additionally the Lisbon Treaty solidified the importance of the Commission President as a new position was created within the College of Commissioners. The new post of High Representative of the Union for Foreign Affairs and Security Policy, makes deciding the make-up of the College more important than ever before. However, being a President of one of the institutions does not come with equal prestige as Chris Heaton Harris former MEP explains; “whilst currently the Commission President has a hugely important political role, the EP President is more of a figurehead” (Harris 2009). While limited influence may be attributed to the President of the European Parliament the Lisbon Treaty introduces (Article 1(18)), stating the European Council must take into account European elections when nominating a Commission President. As a result, “the Treaty of Lisbon is breaking new ground by introducing a direct link between the results of elections to the European Parliament and the choice of candidate for the Presidency of the Commission” (Europa 2009). Although, just how ground breaking this requirement is may be in question. From the outset it appears that the Member States are relinquishing some degree of authority in that they are limiting their ability to choose a candidate. However, the formal process of nominating a Commission President remains the same. Taking on board the results of European Parliamentary elections could be viewed as simply a logical consideration, with or without the formal requirement of it. In fact it appears it is not uncommon for the European Council to be aware of the opinion of the European Parliament before a decision is made. Hans-Gert Pöttering, the former President of the European Parliament, appears to have made his opinion quite clear regarding potential candidates; “this did not come strictly as a surprise, since he had voiced the same opinion several times before the elections” (Thym 2005, p.204). It should not be forgotten that even the President of the European Parliament is a member of a European political party. For this reason it is likely any preference put forward will be associated with their ideology. Therefore even before this new Lisbon Treaty requirement the European Council would still have to contest with a complex ideological party system in the European Parliament, one that has been keen to express itself over potential candidates and

including this new requirement seems to only formally recognise what has been for many years an established informal process.

How the Commission College has been appointed has changed numerous times often to the benefit of the European Parliament. Yet this has not stopped an overall decline in the turnout at European elections. Europa gives some indication behind linking elections to candidate selection as it “increases the weight carried by the Parliament in appointing the President and therefore raises the political stakes associated with European elections” (Europa 2009). Certainly developing ways to raise the political importance of European Parliamentary elections is a noble cause, though; the impact of this change seems unlikely to translate into increased voter numbers. For example Derek Vaughan MEP argues, “I think people have difficulty in understanding what MEP’s do and then to try to explain to them what Commissioners or the Commission as an institution does and ask them to vote on that would be too complicated” (Vaughan 2010). Perhaps this explains why European Parliamentary election results were only linked to the choice of Commission President rather than to the Commission College as a whole. Nominating a candidate for Commission President in line with the European Parliament’s election results is simply not enough to guarantee influence to MEPs. However, before the Lisbon Treaty José Manuel Barroso participated in numerous meetings with political parties in an effort to gain re-election as Commission President. Therefore it is not simply a case of turning up and being voted on the merits of experience and qualifications. The task is made all the more challenging with Lisbon Treaty requirements where candidates must now secure the approval of a majority of all MEPs, not just those present in the chamber. This was not the case for Barroso who only had to secure a simple majority of the MEPs present at the vote as required under the Nice Treaty.

As this vote is carried out by secret ballot it is not possible to formally identify those who approved, rejected or abstained. According to Alyn Smith MEP the secret ballot probably occurs in order to protect the interests of MEPs; “the justification which the group Presidents would put forward is that we don’t want to see one group penalised by the Commission as a whole” (Smith 2010), though, the political parties have made their intentions quite clear on the vote of Barroso beforehand. The Progressive Alliance of Socialists and Democrats for example decided to abstain on the vote. This meant that had Barroso been subject to the

conditions of the Lisbon Treaty he would have been elected by only the narrowest of margins. Furthermore, Commissioners are not elected to bear grudges against MEPs for expressing disagreement over their nomination or ideological beliefs. Any evidence of this behaviour would seriously call into question the ability of such a Commissioner to remain in office. Yet arguments have been developed that Commissioners are influenced by the very Member States they are nominated by. Even Commission President Barroso has been accused of bowing to the interests of Member States which would weaken his position against other institutions. According to Kaczyński, “The particular concern was that the Commission’s position is an effect of the increasing intergovernmentalism of the decision-making process in the European Union” (Kaczyński 2009, p.3). Removing the pressure on actors to bow to the interests of the Member States can be addressed through the institutional design. The very presence of the European Parliament providing a platform for the President-elect of the Commission to address MEPs is a far more transparent and democratic process otherwise. Any nomination is unlikely to secure the overall support of all political parties. Where disagreement does occur it helps stimulate tougher political questioning and helps draw attention to the fact ideological factors are a strong component of European Parliamentary politics. Member States will be all too aware of the potential for the European Parliament to potentially reject their candidate. Ideological consideration coupled with ability must realistically be included as the European Council makes a selection, moving the process further away from purely serving the interests of Member States. What remains though is the fact the European Council still has an intergovernmental grip on which candidate is put forward however limited its choice may or may not be by European Parliamentary elections. The power remains in making the choice itself and in this regard the European Parliament’s influence is only a consideration for Member States in who is nominated.

### **Allocating Portfolios**

After the election of the Commission President and in similar style to that of a national leader a cabinet or in this case College, must be formed. Unlike the process of appointing a Commission President, the Lisbon Treaty did not alter the way in which the Commission College is formed. It did however attempt to reduce the number of Commissioners contained within the College. With its size growing to include twenty-seven different positions and

further enlargements on the horizon a method of College reduction seems a logical step. However this proposed change was not implemented as the European Council unanimously voted to defer its introduction. For Richard Corbett and Íñigo Méndez de Vigo, rapporteurs of a report on the Treaty of Lisbon, this was regarded as a positive decision. According to their report published by the Committee on Constitutional Affairs, “it makes it possible to respect the new Member States' aspiration to be represented in the Commission during the first years after their accession, whilst providing, after a reasonable lapse of time (2014), for the vital reduction in the number of Commissioners” (Corbett and de Vigo 2008, p.32). Commissioners are elected on the basis of impartiality, yet some Member states seem all too keen on postponing the reduction of the College. As candidate countries like Macedonia and Montenegro seem likely to join a greater political will may resolve the issue if the College grows further. Though this does little to change the argument put forward that new Member States express a desire for representation in the Commission. Only by Commissioners showing they are truly independent of national influence can a reduction in size be achievable. This may be politically beneficial to the European Parliament as it is a good way to strengthen the independence of Commissioners from national influence. Any competitive pressure on Member States to nominate candidates to protect their national interest is decreased. This is a result of the European Parliament judging candidates on suitability, where the interest of the European Union is placed before that of Member States. The European Council could benefit from cooperation with a more streamlined efficient Commission College that is appointed without national bias through a system structured around the needs of the European Union.

This raises concerns about just how impartial a Commissioner can be. It is therefore important to examine more closely the way in which Commissioners are elected. Since the 2010 appointment of the Barroso Commission the European Parliament has seen it necessary to introduce a number of changes regarding this process. The President of the European Parliament is now enabled to invite the President-elect of the Commission to address MEPs about the allocation of portfolios. As the European Parliament is charged with the responsibility to approve the Commission College en-mass any President-elect of the Commission would be unwise to refuse such an invitation. The allocation of portfolios has become an issue for several reasons. For example, an ever growing College has caused confusion and overlapping competencies. Ensuring each area is befitting to that of a portfolio

has proved difficult as a result. More Commissioners has generated greater competition and rivalry especially as some candidates come from prestigious previous roles such as former Prime Ministers. In 2006 Martin Schulz MEP voiced such concerns directly to Commission President Barroso. It was the opinion of Schulz that to give the new Romanian Commissioner a portfolio consisting of only multilingualism was insufficient and went on to suggest areas more befitting (Schulz 2006). Portfolio allocation appears to be more complicated by the intergovernmental origins of this procedure. It is Member States after all that put forward their candidate for Commissioner. Even with the President-elect of the Commission allocating portfolios this does not ensure a College can be formed. Expertise in various areas must be matched accordingly with relevant portfolios. Therefore it is the responsibility of the President-elect of the Commission to make sure this is the case in cooperation with Member States. Lajos Bokros MEP raises this issue well in 2009 arguing there was a “Suboptimal allocation of portfolios among Commissioners, Joaquín Almunia who was a safe pair of hands in managing monetary and economic affairs is now transferred to competition which is not his cup of tea” (Bokros 2010). Forming a College is a complicated process and in recent years gender equality has become more of an important consideration. Dutch MEP Judith Sargentini explains, “last time round we got a very good post because at that time Barroso was short of women so if we handed in a woman we could get a higher post” (Sargentini 2010a). This pressure is compounded with the work the Commission has done to promote equality in the work place and as such this should include the College itself. According to Shane Phelan, “former Taoiseach Brian Cowen chose Maire Geoghegan-Quinn as Ireland’s EU commissioner ahead of two male candidates after Commission President Jose Manuel Barroso urged him to pick a woman” (Phelan 2011). This is not the first time a President-elect of the Commission has asked Member States to reconsider. The very fact such a request has taken place does suggest Member States are faced with some degree of political pressure from the supranational level.

Perhaps this explains why the Committee on Constitutional Affairs sought to introduce changes to future appointments of the Commission College. Inviting the President-elect of the Commission to explain the allocation of portfolios emphasises this is a supranational decision and not an intergovernmental one. An invitation may seem like a small alteration but it raises awareness to a decision-making process that has been left open to intergovernmental criticism. In 2004 France, Germany and the United Kingdom held a summit in Berlin where



the formation of the new Commission College was discussed, “The three countries proposed that the new commission that takes office in November should have a new “super-commissioner” in charge of economic reform” (Economist 2004). Such pressure undermines the position of the President-elect of the Commission who is responsible for portfolio allocation. Former President of the European Parliament stated this point quite openly towards Prodi, former President of the Commission, “you as President Designate had no part in the German appointments” (Pöttering 1999b). With Member States, especially the larger ones, positioning themselves for top jobs in the College there is a distinct national influence to contend with. This is made all the more difficult for the likes of Barroso especially when Member States like ‘the big three’ formulate agreements on areas of competence outside their remit. For some, national influence may be an important contributing factor in determining portfolio allocation (Charter and Webster 2009, Murray 2004). For others like Döring the national influence argument remains unclear, “Currently, we do not know enough about the logic of portfolio allocation in the College” (2007, p.225). Richardson reminds us of the importance of collegiality here and may provide an answer to the concerns of Member States in their positioning for portfolios. According to Richardson, “individual Commissioners, unlike national ministers in some member states, are not meant to run their portfolio autonomously” (Richardson 2006, p.110). This effectively means all Commissioners must function together in order to make the most important of decisions. Member States concerned with losing-out in portfolio allocation still have collegiality to protect the interests of the European Union.

Scrutinising the President-elect of the Commission on portfolio allocation will likely have an impact on how Member States attempt to influence this process. These changes suggest that entrusting the President-elect with the responsibility of allocating portfolios is an inadequate check on promoting the principles of democracy. Increased pressure is placed on nominations for Commissioner that serve the interests of the President-elect in shaping the vision of their College. As independence from national influence is a key component of how the Commission College should function, any President-elect would be wise to position themselves as the key decision-maker in this area. MEPs would certainly raise concerns about any national influence involved in this process. This invitation does more than place the European Parliament in a position of scrutiniser; it enforces the President-elect in a position of decision-maker something that seems to have been lacking even with the importance of

collegiality which has done little to ensure Member States refrain from exerting influence. It improves transparency over the process of allocation while offering greater opportunity to assess how capable the President-elect is in dealing with Member State influence. In the past commentators like Beukers have stated, “member states are able to prevent a change of portfolio. Replacing a Commissioner was impossible as long as the European Council was blocking it, as Barroso himself admitted” (Beukers 2005, p.222). Small changes such as this invitation could have a large impact on the dynamics of the inter-institutional relationship, if used effectively by the European Parliament. With this example MEPs are attempting to strengthen the democratic functioning of the appointment process. Member States must now be aware any attempt to overrule the President-elect may be exposed when an explanation of portfolio allocation is made in front of MEPs. However this does not take the decision away from the Member States in the European Council as they have the political means to offer the President-elect a take it or leave it option and this is where the current problem lies.

### **Questionnaires, CVs and Financial Declarations**

Much of the focus surrounding the European Parliament’s opportunity to scrutinise Commissioners-designate is placed on the hearing process. However there are other obligations to fulfil such as the preparation of written questions to be answered prior to the hearings. These questions aid MEPs in determining the suitability of a candidate and are prepared in accordance with the European Parliament’s Rules of Procedure. In 2009 these questions were prepared by the corresponding committees relevant to the Commissioners-designate portfolio. Recent amendments to the format of these questions now include two of the five questions to be prepared by the Conference of Committee Chairs. These will cover issues relating to independence, competence, management of their portfolio and cooperation with the European Parliament. The remaining questions will be prepared by the committees relating to their priorities and requests. The hearings thus provide an opportunity for MEPs to scrutinise based on the replies. This was certainly the hope within the Group of the Greens/European Free Alliance during the 2004 appointment process as their report expresses, “Vladimir Spidla's written answers published in advance were politically quite vague” (Horstkötter 2004, p.2). Therefore through the scrutiny of these replies in this instance saw MEPs able to strengthen their ability to hold the Commissioner-designate accountable in

the hearing. This serves as a warning sign for MEPs concerned to focus their efforts on specific areas. As time and resources are limited within any institution such questionnaires offer a real glimpse of what lies in store. Written replies are open to the public domain and Commissioners-designate are pressured to start work in understanding what their position entails from an early stage. With growing media attention and live online streaming of the hearings Commissioners-designate can ill afford to get off on a bad start with the questionnaires. Generating these documents sets out early on what the College intends to achieve over the next five years. Often this includes making a commitment to a close working relationship with the European Parliament. MEPs tend to reinforce their position as the only directly elected institution and their obligation to hold the European Commission accountable. At any point throughout a Commissioner's term they may be reminded of what they committed to and constantly reminded of what this entails.

As with any consideration for employment the curriculum vitae's of the College are also made available. It is not uncommon for Commissioners-designate to be well known political figures with a well-publicised track record. Many will also be running for re-election with the only difference being a change in their portfolio if not simply a new title for it. Running for re-election or not, all Commissioners-designate are treated equally and all have been made to disclose their financial declarations, though the information provided has varied as some seem more capable than others in how this information is presented. According to Andrew Duff, "Some of these are very full and frank and are perfectly acceptable. Some of the financial declarations I would have to say are quite thin. It's extraordinary how several of the Commissioners-designate appear to be very poor and to have seldom done anything in the course of their previous career" (Duff 2010a). These concerns seem serious enough that MEPs have decided to play closer attention to the disclosing of financial interests since 2009. It will now be common practice for the information to be sent to the Legal Affairs Committee for closer scrutiny. This move does not increase the authority of the European Parliament but it does emphasise MEPs intentions. Commissioners-designate will not be judged on their political abilities alone and as these changes highlight they will not gain support solely on reputation. Successful Commissioners take office knowing what goals they wish to achieve and what areas MEPs wish them to address. This leads to a positive inter-institutional relationship as the Commission College starts its work with a vote of confidence.

Placing greater resources into financial scrutiny does not alter the intergovernmental nature of selecting a candidate. It does however place greater pressure on Member States to make sure their mechanism for selection produces candidates suitable for appointment. In 2004 Commissioner-designate Mariann Fischer Boel's financial declarations caused controversy over her suitability. Contained within the response to the written questionnaire Mrs Fischer tackles the issue directly; "In order to clarify the compatibility of this ownership with my prospective duties as Commissioner, the matter was looked into by the Legal Service of the European Commission" (Boel 2004, p.3). Without the inclusion of the European Parliament this matter would not have been addressed in the public domain if at all. Addressing these matters is best done prior to a candidate taking office. With greater transparency comes greater opportunity for democracy to prosper. The matter was somewhat overshadowed by more controversial issues relating to Commissioner-designate Rocco Buttiglione. However during a Parliamentary debate Jean-Claude Martinez MEP mentions, "when it comes to agriculture, incidentally, I shall not speak about Mrs Fischer, her interests in a sugar multinational, nor her family pig farms businesses that relocated to Russia" (Martinez 2004). Clearly this was an issue for some MEPs even with the European Commission's Legal Service concluding there was no cause for concern. With the European Parliament now conducting its own examination into the disclosure of financial declarations the process is democratically strengthened as any possibility for institutional bias is removed. However until Commissioner-designates take the scrutiny of their background more seriously many will continue to provide unsatisfactory information as the European Parliament is forced to scrutinise on what information it receives.

### **Commissioner-designate Hearings**

As shown there is more to the appointment of the Commission College than the hearing alone but the importance of this stage is perceived as central to the vote of approval. It is a chance to directly interact with Commissioners-designate in what resembles an intense job interview. Typically three hours' long questions range from personal to political. The hearings are streamed live online and media involvement is encouraged with press conferences arranged in 2009 for Commissioners-designate following their hearing. The hearing itself is designed

to allow European Parliamentary committees a chance to question Commissioners-designate assigned in the same area of competence. As portfolios can overlap in more than one committee's jurisdiction the distinction was made to prioritise certain committees. During the 2010 hearings committees were categorised with the following distinctions: committee responsible, associated committee and participating committee. After each hearing an evaluation letter is swiftly prepared and forwarded to the President of the European Parliament. Following this the European Parliament can prepare for the scheduling of a vote of approval on the proposed Commission College once all evaluation letters are received. Like the hearings these evaluation letters are made publicly available and offer a useful insight into the opinions of MEPs. The hearing process is at the centre of the European Parliament's opportunity to scrutinise Commissioners-designate. It should provide a forum where MEPs can determine how they will vote on the Commission College as a whole. It is important Commissioners-designate perform well as previous hearings have resulted in candidates being withdrawn at the request of MEPs lack of suitability.

Ensuring the rules are followed during the hearing is the responsibility of the Committee chair. As set out by the coordinators beforehand the structure of the hearing must ensure both MEPs and Commissioners-designate are given a fair platform in order to conduct the process. Taking place in the European Parliament this puts the process truly on the supranational stage and completely transforms the process from the early days of intergovernmental politics. As a highly publicised event the recently elected European Parliament has an eminent opportunity to make a very public case that it is critical to the democratic functioning of the European Union. As the chair begins proceedings it is common for MEPs to be reminded on the need for compliance with the rules. This ensures in theory, a structure of equality in that those participating are given the opportunity to be heard fairly. However, in practice it also creates a lack of flexibility as seen by a number of factors. During the very first hearing of 2010 Elmar Brok was positioned as the first MEP to table a question. Brok was given one minute in which to forward a question yet the chair was forced to switch off his microphone as he continued to speak over his allocated time. This occurred far too frequently as numerous MEPs failed to finish their questions. One MEP was even unable to start a question given that he spent too long in the build-up. Understandably Ashton remarked, "It is an additional challenge to try and guess the question" (Ashton 2010). Truly an astonishing fact given the

importance of this event and one which highlights the duty of MEPs to perform otherwise this process is meaningless.

Time is clearly an issue and for reasons of impartiality the chair cannot be seen to favour anyone. MEPs and Commissioners-designate alike are aligned to political parties and this process is about suitability not favouritism, though at times it seems effectiveness has been sacrificed at the expense of equality. However when time is an issue through reasons other than ensuring a level playing field concern should be raised that democracy is diluted than at work. The chair of the budgetary hearing reminds MEPs, there is an extremely tight timetable with three hours available not a minute less or a minute more (Lamassoure 2010). Amazingly this call for efficiency is in part because of the need to free up the room for the next hearing. Given the importance of the hearing process and the resources dedicated to such an even it seems puzzling this is even an issue. This practice was common place in 2010 with up to three hearings a day occurring in the same room with only thirty minutes between each changeover. Politics is not predictable and delays in one hearing should not be at the expense of others. This is only a minor criticism but it does highlight the responsibility of the European Parliament to conduct its operations in the manner befitting of world leading institution. Additionally as hearings are streamed live online anyone can access this information in order to learn more about Commissioners-designate. However as multiple hearings occur simultaneously viewers are limited in what hearings they can follow live.

Considering the importance of the hearing process greater time management is appropriate. After all, as many of the hearings showed, ensuring everything runs perfectly is an unrealistic goal. MEPs continuously ignored the rules by asking multiple questions following clear guidelines regarding behaviour. At one point Ashton was asked seven questions between three MEPs and given, according to the rules, three minutes to reply. Understandably Ashton reminds one MEP, “in terms of the number of questions that were asked, you did not ask me one, you asked me four” (Ashton 2010). It is little wonder Ashton failed to answer one MEP completely as the fast paced hearing leaves little room for mistakes. The European Parliament is responsible for ensuring the hearings are conducted professionally and in some instances it has failed to follow its own rules. According to one Commission official, “there is a risk that individual MEPs overstretch their power by representing personal rather than institutional

priorities” (Dröll 2009). The hearing process gives the European Parliament a real opportunity to determine the Commissioners-designate suitability. As such rules should be enforced throughout the hearings after all this is in the best interests of the European Parliament. In order to be bestowed upon with more powers it must first use those it has effectively.

Important changes to the hearing process have been introduced in an attempt to strengthen the procedure and learn from previous weaknesses. For example as MEPs are entitled to ask a question on any topic they wish, there has been a tendency for questions to jump from one topic to another. This not only makes answering questions more difficult but also serves to introduce at times an unnecessary repetition. It is now the wish of the European Parliament for questions to be more efficiently grouped by topic. This will help Commissioners-designate concentrate on specific areas more closely and bring the added bonus of generating more of a forum for debate. The Framework Agreement on relations between the European Parliament and the European Commission states the opinion of the European Commission must be sought in order to make these changes. For this reason Maroš Šefčovič, the European Commissioner for Inter-institutional Relations and Administration, attended the Committee on Constitutional Affairs. This democratic process made publicly available highlighted points that were of concern to European Commissioners. According to Šefčovič a standardisation in hearing structure would be beneficial, “We had three different procedures during the last process more or less decided by the committees how to deal with the hearings” (Šefčovič 2011). Through inter-institutional dialogue the European Parliament is creating a more effective environment for the hearings to take place. This shows the European Parliament is not only acting on its own initiative to strengthen democracy but doing so through cooperation. Without the European Parliament’s focused committee structure it is unlikely any other institutions would have been likely to push for such improvements. This relationship helps to forge a culture of cooperation with the very institution it is attempting to scrutinise. The Commission has shown a real interest in improving the process of scrutiny as shown by interinstitutional agreements and dialogue with European Parliamentary committees. This suggests the European Parliament is being taken seriously as a means to provide legitimacy towards appointment of the Commission College that Member States alone cannot provide. Thus liberal intergovernmentalism still explains the position of Member States in choosing candidates though it does not provide an answer as to why the

European Commission is actively seeking further collaboration with the European Parliament.

### **Case Study: Rumiana Jeleva**

It is evident the European Parliament's participation in the appointment process is not simply a formality. Nothing expresses this point more when Commissioners-designate step down at the request of the European Parliament. It is not uncommon for evaluation letters to express concern or have MEPs openly criticise Commissioner-designates during the hearing. The pressure placed on the President-elect of the Commission to replace candidates such as Buttiglione, enforced the European Parliament's position in this respect. To a large extent the Buttiglione case is well documented in literature concerning the appointment process. However not documented enough is the events surrounding why a Commissioner-designate would risk making such controversial remarks during a hearing. Prior to the hearing the Pope had openly criticised the European Union for failing to include a strong sense of Christian values. According to Zucca, "Buttiglione probably thought he had a mission to accomplish: to represent Catholics in the European Commission. As a personal friend, adviser of the Pope, and author of Encyclicae, Buttiglione was the man of the Vatican in Barroso's Commission" (Zucca 2005, p.178). For this reason the hearings may have been serving Buttiglione's own purpose as a forum to voice his controversial views in the most public of stages. Excluding his controversial remarks the Commissioner-designate may have gained enough support from MEPs as his competence was not called into question. Therefore the more recent example of Rumiana Jeleva provides an opportunity to examine the hearing process according to candidate competence and suitability. These cover not only financial concerns but also performance and experience related issues, rather than a calculated move by any Commissioner-designate to express personal beliefs.

Examining the official documents related to Jeleva's hearing will give a useful insight into the main issues surrounding the event. However in order to fully understand just how capable the European Parliament can be in influencing the appointment process it will be necessary to include the opinion of decision-makers themselves. Complimented by the freely available



hearing recording this case study will evaluate aspects of the hearing process currently not approached in previous literature. It will also be important to examine the influence of party politics in Jeleva's candidacy as a possible explanation for lack of support. When commentators talk of the European Parliament it is often simplified as a monolithic institution. However, there is an important ideological spectrum to consider especially with such an important event. The onus is also on the European Parliament to perform here democratically. The withdrawal of Jeleva's candidacy marked an important milestone that will shape how the European Parliament scrutinises future Commission College appointments. It will be a much discussed point of reference in future literature and for this reason it is important a highly accurate account of the influences at work is examined through a variety of sources and viewpoints.

The structure of the hearings held in 2010 was made widely available to those MEPs participating and Jeleva herself. The Chair responsible for enforcing proceedings was Eva Joly MEP and as the discussion will show this position can make a substantial difference in the functioning of the hearing. Although there were differences between the individual hearings they generally followed a similar format of introductory speeches followed by a lengthy question and answer session closed with a final remark. In the case of Jeleva's hearing, the opening was allocated to the Parliamentary Committee. This was, as instructed by the chair, to outline the group's priorities in relation to the allocated portfolio of International Cooperation, Humanitarian Aid and Crisis Response. In the case of Filip Kaczmarek MEP and member of the European People's Party (EPP) such a statement was delivered, even if he had to be cut short by the chair. Followed by Thijs Berman MEP of the opposing Progressive Alliance of Socialists and Democrats party (S&D) there was little in the way of similarities. In Berman's heated opening remarks, "We – and you – are faced with a huge organisational mess. Development policy is being dismembered under the torturous process of the division of portfolios between too many European Commissioners" (Berman 2010a). These divisions which Berman expresses relate to Ashton's and Piebalgs' portfolios where similarities in competencies can be drawn, (not to mention both these hearings had already taken place by the time Jeleva's commenced). The newly introduced changes since the last round of hearings may go some way in offering Berman an opportunity to voice these concerns directly to President-elect who allocates portfolios. In this instance however Jeleva has been allocated a portfolio and criticised on an area of decision-making that was out of her

control. Rather than judging Jeleva on suitability such statements by Berman serve to only voice frustration at the process at large. This weakens the purpose of the hearings and the democratic function they represent.

Coming directly from the position of Foreign Minister of Bulgaria, Jeleva's political background on the face of it seems adequate. However, this position was only held for six months. Jeleva's previous career as an MEP may explain more clearly why she was selected. In 2007 Bulgaria joined the European Union and with two years remaining in the European Parliament's 6<sup>th</sup> term, Jeleva and seventeen other Bulgarians were elected as MEPs. This was followed by a brief re-election as MEP in 2009, serving as Vice-Chair in the EPP for twelve days. Jeleva had decided to move back to national politics where her party GERB (Citizens for European Development of Bulgaria) won outright. With experience as an MEP, holding office as Bulgarian Foreign Minister and nominated as Commissioner-designate the EPP elected Jeleva as their Vice-President in December 2009. Even before the hearing took place the EPP had positioned itself firmly behind the campaign of Jeleva with her elevation to the top ranks of the party hierarchy. Although not uncommon for Commissioners-designate to have European political party links it does raise the issue of vested interest even before the hearing commences. The EPP had positioned itself with a lot of political credibility to lose in the event Jeleva was unsuccessful before any hearings had taken place. It also explains why Kaczmarek MEP and EPP member gave such a neutral opening remark towards Jeleva compared to all other political parties. Again this weakens the democratic process if political parties are subject to bias on their own party candidates rather than provide the necessary scrutiny the hearing process is suppose to represent.

It is understandable due to the complexity of the portfolios each hearing will contain differing number of MEPs. Committees vary in size and include additional committee representation, though this should have had little impact on how the opening of each hearing was structured as standardising a system of opening remarks would have been advantageous to the goal of equality. In the case of Jeleva, the particular structure of the hearing worked against her from the very beginning. Before Jeleva was even able to make her introductory statement a number of MEPs had already asked several questions. Unlike Ashton's hearing the opening statement in Jeleva's was not allocated to the Commissioner-designate. Instead the Committee had been

allowed to outline its priorities concerning the portfolio. At first this might seem like an insignificant detail but as the Chair makes reference, this time is for stating priorities and does not invite questions at this juncture. Judging from Jeleva's opening statement she came prepared to follow the procedure as agreed beforehand. This unfortunate effect implied Jeleva had dodged those questions put to her. Coupled with the serious nature of the questions concerning her financial declarations MEPs were determined to get an answer. So much so Judith Sargentini MEP intensely states, "Now four colleagues have asked questions that you have not answered. I shall ask it again. Why did you not mention your financial interest in Global Consult in your financial declaration" (Sargentini 2010b). Unfortunately for Jeleva she arrived too late as an MEP to participate in the first Barroso Commission confirmation hearings and gain some first-hand experience of what to expect otherwise she would have been better prepared for breaches in protocol. The problem at this point was not with Jeleva's failure to answer any direct question; rather MEPs were outright ignoring the Chair and failing to apply their own internal rules.

The issue over Jeleva's financial declarations remained central to the hearing. Several MEPs made direct reference to this in their questioning while Jeleva expressed an interest in moving the topic towards a discussion of the portfolio. The structure of the hearing itself was critical in how far MEPs were able to approach this. For determined MEP Judith Sargentini when, "you stumble upon a topic you need to be able to explore the topic and actually I had to really force myself into that because I wasn't allowed" (Sargentini 2010a). This pressure resulted in the fragmentation of the debate. As MEPs come from different ideological stances understandably some were more concerned with questioning aspects of the portfolio. This meant for others the issue over financial declarations was not being dealt with in full. Where Jeleva did answer, instead of being pushed on anything requiring further clarification the next question would relate to an entirely new topic. Following a question by MEP Judith Sargentini, that relates directly to the area of controversy, Jeleva states, "because this is a very important issue I would like to answer it in my own language" (Jeleva 2010). Afterwards there was no flexibility in that Jeleva's response could be addressed. Instead what was witnessed was a question on humanitarian emergencies. Coincidentally this question was asked by Jan Zahradil MEP from the ECR (European Conservatives and Reformists) party, a right of centre group once previously members of the EPP. Nonetheless for reasons of party affiliation or not, Jeleva's response could be not be debated further. It took the intervention of

Ivo Vajgl MEP to raise a point of order mid debate requesting Jeleva's response be addressed. In an interview after the hearing Vajgl explains his reasoning for doing so, "she made a bad impression by answering the question she did not seem to be very competent even though she was the foreign minister" (Vajgl 2010). It is with Jeleva's behaviour in switching languages and appearing unprepared for the line of questioning that the hearing took an important turn towards the competence of the Commissioner-designate. Part of the process beyond scrutiny is about being able to appear proficient at dealing with difficult questions. In exposing Jeleva's weakness here the European Parliament is enhancing the democratic process that otherwise would have gone unnoticed.

Even though the European Parliament is attempting to perform a democratic check on Commissioners-designate it seems its efforts are being restricted at times. As Ashton light heartedly remarked during her own hearing, the rules keep changing. In the case of the Jeleva's hearing, MEP Judith Sargentini goes as far as to say, "the structure ruins the debate and actually ruined the scrutiny in itself" (Sargentini 2010a). Even if this was an isolated incident the criticism and potential for similar problems to arise in future hearings is a serious concern. Hopefully this will be a lesson learned by the European Parliament in its efforts to improve the hearing process. While MEPs like Sargentini might feel the structure of the hearing is responsible for ruining the debate others have expressed different views. Prior to the hearings taking place Joseph Daul MEP and József Szájer MEP on behalf of the EPP defined the criteria by which they wanted to judge Commissioners-designate on. Going as far as holding a press conference on the subject, the EPP stressed the need for political hearings where European commitment and portfolio suitability was more important than party association. This became evident when EPP Gay Mitchell MEP stated during the hearing, "I think we should examine Mrs Jeleva on her suitability to meet the requirements of a Commissioner on humanitarian aid and, if anything she has said here today in relation to her declaration is found not to be accurate, we can deal with that in our letter of recommendation" (Mitchell 2010). This statement even generated a mild applause and it appears MEPs in different political parties were in agreement with the EPP stance.

The evaluation letter does indeed offer the opportunity to express findings of corruption if lies were told. But the hearing itself also offers the opportunity to question Commissioners-

designate on the area of financial declarations. However according to MEP Charles Goerens, “I was not very convinced by the appropriate character of the questions raised by several members because I was informed about the fact that the Secretary General of the Commission made scrutiny of each candidates dossier and as far as I know and I was informed this was a very tough procedure” (Goerens 2010). Following the hearing the European Parliament’s Legal Services cleared Jeleva on account of her financial declarations, although for some this was not enough to justify supporting Jeleva’s candidacy for Commissioner. It appears to be no coincidence that future Commissioners-designates’ financial declarations will come under scrutiny by the European Parliament, hopefully avoiding the scenes associated with the Jeleva incident. The European Parliament is using the practical experience of previous hearings to improve its’ internal functioning. Simply relying on Member States to propose suitable candidates and allowing the European Commission to investigate their financial declarations has not satisfied the European Parliament. If this was an intergovernmental affair Member States would not face such tough scrutiny on their Commissioner-designates. It therefore points to the possible explanation of new institutionalism as means to interpret the behaviour of the European Parliament, particularly sociological institutionalism with its approach towards the independent nature of supranational institutions. MEPs have been shown to follow European political party lines in the case with EPP members or structure their behaviour according to standards on competence. At no point have national sympathies become apparent in the behaviour of MEPs, questioning the extent of intergovernmental control once Commissioner-designates are selected.

### **The Importance of Competence**

Clearly there was a divide between MEPs about the nature of the questioning. Just how appropriate some questions are appears to be a matter of disagreement that is unlikely to be resolved. Even though Jeleva was exonerated over accusations concerning her financial declarations the nature of the concerns had moved on. Clearing Jeleva’s name was no longer the central issue deciding whether MEPs would support her candidacy as “the S&D, the Liberals, the Greens, the far-left and the European Conservatives and Reformists were adamant that they would block Jeleva from becoming a commissioner” (Taylor 2010). This also serves to highlight aspects of the internal organisation of the European Parliament often

not fully addressed. The European Parliament is made-up by a complicated political party system similar in many aspects to those on the national level. Opinions had been expressed that moves to withdraw support over Jeleva's candidacy were a political manoeuvre. For József Szájer the EPP's representative on the hearing process, if the European Parliament would have given her, "the right chance for the right fair audition she would have provided the necessary answers" (Szájer 2010). For that reason it will be necessary to determine the views of MEPs on Jeleva's candidacy. Any judgement over a candidate based on political affiliation serves to weaken the democratic principles at the heart of the hearing process.

According to the Treaty on European Union, "The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt" (Article 17(3)). One of the most telling discussions regarding the lack of support for Jeleva took place in a BBC interview for the popular television show *The Record Europe* in the 23<sup>rd</sup> January 2010 edition. In this Thijs Berman MEP disregards any accusation of unfair treatment towards Jeleva stating, "the problem is a lack of competence" (Berman 2010b). This would suggest that at least in the case of Berman his opinion is being formed on those factors determined by the treaties. While it is difficult to determine what factors motivated all MEPs it seems others have expressed similar positions. For example in an interview with Franziska Keller MEP she expresses the opinion, "It was clear that parliament was not going to agree to a Commission where Jeleva was in because there were questions to her financial things but also she was clearly not competent for the job" (Keller 2010). Such opinions have been expressed by numerous other MEPs and media reports where a lack of competence is a key theme, "she showed poor geographical knowledge for a foreign minister, and gave only bland answers to MEPs' questions" (Taylor 2010). Even though the hearing is an exchange between MEPs and Commissioner-designates, "the Jeleva controversy has also pitted Mr Schulz against Bulgaria's centre-right prime minister, Boyko Borisov, who in recent days described the affair as a socialist plot" (Rettman 2010). It is a sensitive issue for whichever Member State must accept defeat in nominating a new candidate however this does not excuse the unjustifiable claims made by Borisov.

Where real benefits can be seen come from the fact "Barroso can at least console himself that although he may have suffered temporary damage, his team has been strengthened by the

resignation and the replacement.” (European Voice 2010). This is a clear instance where the supranational approach to appointment has actively forced Member States to change their mind and appoint a better qualified candidate. In doing so the Commission College has benefited from the expertise of Kristalina Georgieva as the new Bulgarian Commissioner where she earned “repeated applause from MEPs across party lines” (Euractiv 2010). By pursuing its own independent agenda here the European Parliament has shown it is capable of providing benefits to the Commission College other Member States were not able to. It is from a sociological institutionalist perspective that this outcome is best interpreted. Member States have been influenced to alter their behaviour because of the formation of preferences on the supranational level. This is a clear result of the European Parliament acting according to its own values as a scrutiniser and pushing endogenous preferences towards other institutions involved. Without this added political pressure from European political parties a substandard Commission College would have been appointed simply because, Member States are not in a position to scrutinise each others’ candidates.

### **Party Affiliation**

The most interesting aspect however of the whole debate concerns political affiliation. Apparently the Jeleva case may have acted as a political catalyst causing the implosion of the whole proposed College. This is true according to Berman who claims, “We have been threatened by EPP, threatened that if they had a weak commissioner they would attack our Commissioners as well kind of intimidation you have to accept our weak ones” (Berman 2010b). Such accusations are a serious set-back in an effort to determine suitability. Though the EPP may not agree with the opinion of Berman there appears to be more to this argument than simply the view of one MEP. The Commission College is formed with the intention to appease the political parties. For example, the largest parties gain more representation in the appointment of positions in the institutions than smaller ones. In this sense Member States are being restricted in who they can select as they must be aware of the composition of the European Parliament. If the EPP was so concerned with judging candidates on their competence and European commitment there would not be such a closely tied link between their political size and allocation of the top political appointments. However in reality this

seems to be the way of politics and to many a comparison is likely in how politics occurs on the national level.

Representing the composition of the European Parliament in European Union appointments does help forge a relationship between the ideological view of the citizens and the decision-makers. This would be especially true if European elections were not seen by many as an opportunity to vote against their national government in question rather than an election on European issues. Whatever the criticisms, this system has produced a system where Commissioners-designate party affiliation is an issue for consideration. As Bill Newton Dunn explains, “the EPP as a last desperate measure said well if you’re going to unpick this deal which includes Mrs. Jeleva as far as we’re concerned then we might disrupt the whole deal about Liberals having more Commissioners” (Dunn 2010). Structuring the composition of the Commission College in this way does seem to raise the stakes greatly for the European Parliament. The potential for one candidate to unhinge a larger political deal remains a hazard to be avoided. It may also place political pressure on MEPs to defend their candidates as seen by the EPP, while other political parties withdrew their support for Jeleva. Terry Wynn former MEP commenting on the hearing of Commissioner-designate Erkki Liikenen states, “I can still remember being quite frustrated at his responses, or lack of them. Had he not been a Socialist then I and my PES colleagues would not have voted for him. But we did do because politics does come into play” (Wynn 2010a). Ironically Wynn goes on to mention Liikenen turned out to be one of the best Commissioners he has worked with. This remarkable statement backs up the findings that the European Parliament’s internal structure has negative consequences on the impacts of the hearing process. Party affiliation in this case at least appears to have been a consideration at the expense of suitability. This tells us two important points, firstly competition between the political parties has the potential to detrimentally impact the function of the European Parliament to scrutinise. However, in the words of Andrew Duff MEP, “We are all in a party, this is a parliament for heaven’s sake and party is always present in this process, but I would insist that it ought not to be blown up out of proportion” (Duff 2010b). Duff’s comments appear to have some logic as members of the EPP were far too premature in declaring a lack of support for Jeleva was a party political issue. Secondly, in the case of Liikenen’s poor review in the hearing process, it does not give a guarantee the candidate is unsuitable as Wynn praised his performance as Commissioner. No political system is perfect but this should not stop the European Parliament striving to



incorporate the principles of democracy at the heart of everything it does. Political parties should be encouraged to act in the best interests of democracy rather than in gaining political advantage over one another.

### **Case Study Conclusion**

In drawing conclusions from this case study the first point that should be mentioned regards the weaknesses exposed in how MEPs behaved. Throughout the entire hearing far too many MEPs from across political parties found it difficult to follow the predetermined rules. Not only did this disrupt the ability to scrutinise Jeleva it questions the integrity of those MEPs who lack the self control to deliver one question in one minute. Initially this undermined the European Parliament's role in providing a democratic check on Commissioner-designates. Secondly it soon became apparent, as a result of hostile questioning, that Jeleva was lacking in competence as a potential European Commissioner. It is here the European Parliament can be seen to add real democratic gains in its responsibility to scrutinise Jeleva. This had the effect of creating a supranational opinion among the vast majority of European political parties that Jeleva must be replaced. Even though the hearing is a forum between the European Parliament and the Commission, Member States must become involved when a candidate fails to gain support. Bulgaria's Prime Minister Borisov was unwilling to accept the demands being made by the European Parliament and with this a clash developed between intergovernmental and supranational forces. However through eventual unity of the political parties Bulgaria was forced to back down and nominate a new candidate. This not only produced the European Parliament's most influential moment in the appointment process it had the added benefit of strengthening the Commission College in the long run.

From a theoretical perspective a number of issues can be drawn from this example. Firstly Member States still have control over which Commissioner-designates are nominated. It is this control that places the European Parliament with a limited decision in accepting or rejecting a candidate and supports liberal intergovernmental arguments surrounding state centrism. Secondly, even with this limited option the European Parliament has shown itself more than willing to pursue its own agenda and vote down the entire Commission College

over one Commissioner. It is here the supranational agenda won over intergovernmental interests and lends support towards sociological institutionalism as a method of explanation. Preferences were formed by the Member States as a result of endogenous forces and with it the European Parliament was able to alter European Council behaviour. This conflict and its eventual resolution strengthened the democratic process and while no authority was shifted to the supranational level the European Parliament instead used its powers effectively in a transparent and responsible way to enhance the scrutiny of Jeleva where Member States had previously been lacking. This progression of supranationalism therefore comes from a European Parliament capable of promoting competence as a European Union value and altering the behaviour of intergovernmental actors.

### **Approving the Commission College**

The European Parliament's institutional position throughout the appointment process does have advantages, even if not wholly ideal to some favouring less intergovernmental control. Where a Commission College is approved the procedure has worked accordingly and the European Parliament has added to the democratic legitimacy of the European Union. Where a Commissioner-designate fails to gain support the European Parliament is seen as doing its job to scrutinise unsuitable candidates. Attention is then placed on Member States and the President-elect of the Commission to come up with a solution. As Member States vote to agree on each other's Commissioner-designate they are responsible as a whole even if the problem is not directly with their candidate. What constitutionally matters is the vote of approval. The publication of background information, the hearings and subsequent evaluation letters are all just stages of institutional cooperation in order for a vote to be held. A negative evaluation letter for one or more of the Commissioners-designate is merely an advanced warning sign. The President-elect of the Commission is well within his right to press ahead with the vote. Anticipating the outcome of the vote is a political gamble but often the view of the Parliament is respected enough to determine if a vote is ready to be scheduled. What is interesting is that while the European Parliament elects the President-elect of the Commission it only approves the Commission College. Often overlooked is the fact even after a vote of approval takes place the European Council must still formally decide on electing the Commission College. In this respect it questions whether the European Parliament even

elects the President of the Commission in that this position is still subject to the European Council for election as part of the Commission College. This is by no means as simple as often portrayed in the literature and the very wording of the procedure officially dictates that the final say rests in the intergovernmental control of Member States.

There has been debate over whether the vote should be conducted in approving the Commission College en masse or to possibly have each Commissioner-designate approved individually. Approving individually does have advantages, it could allow MEPs to separate those about whom concerns are raised and not place the approval of supported candidates in jeopardy at the expense of others. The current system has the disadvantage of forcing MEPs to make a decision on whether or not they wish to reject all candidates on the basis of one 'bad apple'. While many MEPs have expressed a positive opinion on voting individually, Ivo Vajgl explains otherwise, "The appointment of Commissioners should be seen first as a team building for the President of the Commission, so he must have the right to see the appointments in his vision" (Vajgl 2010). However this argument is weakened given the dominance of Member States in nominating candidates. When candidates are selected though, they are bound in their responsibility to cooperate in order to be appointed. Allowing Commissioners to be appointed individually would put at risk this cooperation as party politics would come into play. Political parties have shown in Europe they can criticise each other to the detriment of the process. Giving Commissioners-designate the opportunity to comment on other candidates without consequence to their own approval would be harmful in forging a positive future working relationship. With candidates like Jeleva being so closely associated with the EPP it would create a further complication if candidates played on ideological disagreements. After all Bulgaria's Prime Minister already used this argument in order to justify a lack of support for Jeleva. It is easy for small political differences to escalate and become an issue in itself. The current system encourages cooperation even if it is not surprising many MEPs would like more power in approving the Commission College.

The current system treats all Commissioners-designate equally in a single vote with ample opportunity for all parties to express their opinions. Any change in approving candidates individually may have the consequence of bringing greater influence towards national affiliation. Larger Member States may try to use their size as an advantage in ensuring their

nomination is approved more easily. It is a repeated argument that Member States have the potential to influence the behaviour of MEPs and such a change would do little to halt this. The independence of MEPs is critical in ensuring the independence of other actors where a prominent role in appointment is played. An influential European Parliament in approving the Commission College will therefore have an effect in how the Commission develops its institutional relationship with others. The investiture process should ensure the Commission College can function independently and not be over reliant on any one institution for approval or nomination. In the past it was left entirely to the Member States and this system in today's European Union would be unacceptable. Providing the Commission College with an appointment of confidence in competence rather than a decision on dependency has made for a more democratic process. The European Parliament should therefore continue to push itself to function more democratically within the current procedure rather than continuously seek empowerment.

### **Censuring the Commission College**

Once the Commission College gains the approval of the European Parliament and the Council signs off on the appointment, the five year term can begin. The only way to remove the Commission College apart from resignation is through passing a motion of censure by means of a vote in the European Parliament. Although this power has never been successfully implemented in 1999 the Commission College resigned en masse given the likelihood of MEPs prepared to do so. There have been numerous attempts by MEPs to censure the Commission College over the years. Examining these instances will enable a greater understanding into the interinstitutional relationship of the European Parliament and the Commission as well as behavioural aspects of MEPs in their political parties. The authority to remove the Commission College serves as a cornerstone of European Parliamentary involvement in the democratic functioning of the European Union. Holding this power is not enough, it should be subject to a procedural framework befitting of a mechanism that was designed to protect Member States and the interests of the integration project. In this respect as much as the European Commission is responsible to the European Parliament, MEPs are responsible for their behaviour in using and protecting the powers bestowed upon them.

As stated by the European Parliament's Rules of Procedure, "The motion of censure shall be adopted if it secures a two-thirds majority of the votes cast, representing a majority of the component Members of Parliament" (2012b Rule 107). The reason for such a high majority is simple; this power effectively halts the decision-making process. Not only must a new Commission College be appointed but current legislative procedures underway would become stalled. Political parties have in the past cut ties with Council Presidencies over disputes and it would be difficult to see how cooperation could be possible after censure, even though the Treaty on the Functioning of the European Union stipulates, "They shall remain in office and continue to deal with current business until they are replaced" (Article 234). Censuring the Commission College is a drastic measure; it should not be taken lightly nor used unjustly. It is surprising therefore that so many attempts to use the power have been put forward over the years. Each one presents an instance where the European Union's ability to function is jeopardised along with all the work conducted as an external actor and mediator in internationally unstable regions.

### **Censure in Reality**

The censure procedure is one of the few actions where the Council is not directly involved. What qualifies as grounds upon adopting a motion of censure has not been clarified in the treaties. This is odd considering successive treaties have clarified vast numbers of areas throughout the years. Instead it is the responsibility of the European Parliament to decide whether the Commission College needs to be removed. Given the justification for introducing the censure procedure this raises two important hypotheses regarding the use of this power:

Hypothesis 1: Intergovernmental Control.

Member States felt they would be able to influence MEPs into censuring the Commission College if need be.

Hypothesis 2: Independent safeguard.

Member States entrusted the European Parliament to provide the necessary safeguards in censuring the Commission College accordingly.

In order to explore these hypotheses it will be necessary to examine under what conditions previous motions of censure were tabled. European Union democracy rests on the independence of parliamentarians and their ability to hold the Commission accountable. Interestingly upon initiating a motion of censure the Commission is under no obligation to participate in the debate preceding the vote. Nor does the Commission have a right to defend itself in the parliamentary chamber. However it is common practice for the President of the Commission to be present at the debate. After all, the debate allows an opportunity to seek alternative solutions to avoid conflict. It also grants MEPs an opportunity to convince others to support the motion, though again like the Commission, MEPs are under no obligation to attend the debate or vote on the motion. The very signatories attached to the motion of censure have no responsibility to attend the debate or vote on its outcome. This leaves the procedure open to a variety of scenarios it was not designed to accommodate.

The first four motions of censure (1972, twice in 1976 and 1977) occurred prior to direct elections when MEPs were nominated from within national parliaments. If there was ever a time period where Member States would have the greatest control over MEPs, supporting hypothesis one, it would logically be prior to direct elections. Yet these motions of censure go beyond being directly focussed on the Commission alone. According to Magnette, “Censure is thus, in these cases, a strategic instrument in the Council-Parliament relationship, rather than an instrument of control of the Commission by the Parliament” (2001, p.303). Uncovering further information about these motions of censure it appears two of them did not reach the voting stage and were thus dropped. Information provided by Corbett *et al.* (2007, p.278) show these were concluded through compromise or Parliamentary demands being met. The very first motion of censure subject to a vote occurred in 1976 and was brought forward by former MEP Sir Peter Kirk of the British Conservatives regarding aspects of the CAP. During the debate, “All the blame for the chaos in the dairy market was laid at the door of the Agriculture Ministers of the Nine. They had consistently failed to agree on a long list of Commission proposals for reducing butter and skimmed milk powder surpluses” (Parkes 1976). The over whelming rejection of this motion of censure and the views of MEPs that Member States were to blame for the controversy backs up claims made by Magnette (2001) that censure had been related to the Council and Parliament. This also questions the validity of hypothesis two as the censure procedure was being directed at the Commission College

and at the same time indirectly focussed on the behaviour of Member States. Even prior to direct elections the European Parliament was exercising its authority to advance its own agenda through a procedure designed to protect intergovernmental elements within integration. This was not its intended use and starts to show how MEPs are capable of being irresponsible with this power.

Given the fact that three attempts to censure the Commission were made between 1976 and 1977 it is no surprise to find the European Parliament set into motion efforts to solve interinstitutional problems through a series of reports (for further information see Burgess (2000, p.130)). This behaviour further questions the first hypothesis of Member State control over the actions of MEPs. Parliamentary resources were being focussed on improving accountability, thus attempting to avoid a situation whereby the Commission would become embroiled in dissatisfaction with Member State behaviour. Resulting from the Parliamentary reports five MEPs from the Socialist group put forward some interesting recommendations as part of the ad hoc working party on the Kirk report. According to these recommendations, “the Political Affairs Committee should draft an amendment whereby a motion of censure against one or other member of the European Commission would not automatically lead to his resignation, in view of the numerous difficulties this could give rise to in the Member States concerned” (Radoux *et al.* 1977, p.2). This aligns in some ways with hypothesis two as MEPs are acting independently with European political parties and discussing ways to alter the power bestowed upon them. Yet the reference to Member State difficulties shows the motion of censure has consequences beyond the Commission alone of which the European Parliament must be aware of. These examples show MEPs have developed the ability to balance the need to act independently of national interest and also be aware of the implications their actions can have on other institutions. Therefore aspects of both hypotheses can be drawn to conclude from this early stage the motion of censure is too powerful a procedure to be used for all but the most serious of breaches. Intergovernmental concerns have been prominent in MEPs desires to avoid use of the power and improve the interinstitutional relationship. Therefore it will be necessary to examine the remaining instances where this power has been in use in order to determine whether MEPs have developed towards a more professional strategy regarding censure and conclude what motives determine its use.

The two following motions of censure in 1990 and 1991 resulted from the Group of the European Right, not surprisingly heralding views of scepticism over integration. Allowing such a broad representation is testament to the democratic character of the European Union. However it raises questions concerning how the European Parliament internally structures the process of forwarding a motion of censure. According to the Rules of Procedure, “A motion of censure on the Commission may be submitted to the President by one tenth of the component Members of Parliament” (2012b Rule 107). Considering the number of elected Euroskeptic MEPs and the low-threshold for tabling a motion of censure a change is in order. Coupled with the high-threshold for adopting the motion it seems questionable and counterproductive to have arrived at such a position, especially given the fact that in both votes only a total of only twenty-four MEPs voted in favour when it takes considerably more MEPs to enact the motions in the first place. This suggested either in both cases the debates prior to the vote dramatically influenced the opinion of MEPs or there was little appetite to use the power fully. Being seen to hold the power may be enough in itself to force concessions to be made to those dissatisfied.

In 1992 the 7th motion of censure took place as a result of the Commission’s, “attitude on the bilateral negotiations with the US on the agricultural sector of GATT” (Official Journal 1993, C 21). While this instance was not subject to Euroskeptic MEPs alone, the vote was still rejected by an overwhelming majority. This explains the absence of Commission President Delors at the debate prior to the vote. Henning Christophersen Vice-President of the Commission points out this was due to Commission business elsewhere (Official Journal 1993, C 21). However this behaviour can be construed as a political manoeuvre. Attending the debate itself would have automatically given credence to the reasoning behind the motion and even encouraged some MEPs to attend in the hope of questioning the Commission President. Furthermore, even if Delors was on important business it would have been entirely possible for the debate to be held at a later date. It was not until 2010 that clarity was brought to the subject of the Commission’s responsibility to participate in parliamentary proceedings if requested. It was agreed, “The Commission shall give priority to its presence, if requested, at the plenary sittings or meetings of other bodies of Parliament, as compared to other competing events or invitations” (Official Journal 2012, C 70E). In relation to other institutions this is a real sign of the importance placed on European Parliamentary



accountability. It strengthens the democratic link directly towards supranationalism as a means where Commissioners are answerable to MEPs. This does not offer a solution however to the problem of the liberal use of tabling a motion of censure therefore the remaining instances will be discussed.

The next motion of censure was not until 1997 following the European Parliament's temporary committee of inquiry report into the handling of the BSE outbreak. While this report directs much of the blame towards the UK it also raises strong criticisms at the Commission's efforts to address the matter. A major problem was how the European Commission gathered information in formulating policy towards BSE. The Commission, "bases its legislative proposals on the opinions of the Scientific Veterinary Committee, whose members are appointed by the Commission on the basis of nominations by the Member States" (European Parliament 1997, A4-0020/97). In this instance the Scientific Veterinary Committee established a BSE subgroup with UK representatives dominating its composition, given their expertise on the issue. However this also had the consequence of putting UK interests ahead of the European Union's as a whole, further showing the importance of how appointments are made as ultimately the BSE crises could have been avoided if the correct control mechanisms had been in place. Trusting appointed representatives to act independently of national influence is not enough to secure impartiality and in this case mistakes were made that could have been avoided. What the BSE report did recommend though was, "Submission to the IGC of proposals for an amendment to the Treaty enabling a motion of censure to be tabled against individual members of the Commission" (European Parliament 1997, A4-0020/97). This recommendation was unsuccessful, much like the motion of censure, but the European Parliament was strongly critical of both the actions of Member States and the Commission. According to Watson, "Happart's call for an immediate vote of censure against the Commission only attracted support from Communist MEPs and a scattering of French, Danish and Spanish members" (Watson 1997). Being able to investigate the BSE crises shed much needed light on behavioural practices that have since been reformed. Allowing the Commission to address its weaknesses and parliamentary monitoring of this dealt with the problem in a positive manner whereas an immediate censure would have delayed the ultimate goal to reform. The presence of the European Parliament strongly encouraged the Commission to alter its behaviour here and with it a mature and responsible approach from MEPs allowed for a strengthening of Commission practices.

Future appointments were not to be based on nationality but rather qualifications. The European Parliament called for increased transparency in how duties and responsibilities were delegated. In tackling these concerns the President of the Commission called for “nothing short of a revolution in our way of looking at food and agriculture” (Santer 1997a). In doing so the intergovernmental control over how these positions were filled has been weakened in order to promote accountability and transparency, avoiding the risk of potential conflict involving the use of the censure procedure. However Santer’s view on individual censure was stated quite clearly, “The Commission would stress that it is and must remain collectively answerable to the European Parliament. Motions of censure against individual Commission Members should not be entertained” (Santer 1997b). Doing so also makes it more difficult to enact a censure motion as removing the entire Commission College over one Member raises the political stakes considerably. MEPs would have to balance the impact of one Commissioner against the consequences of stalling the entire European Union. However the European Parliament has been awarded a clear victory over further recognition by the Commission President that the European Parliament is the only institution positioned to hold the college responsible for its actions. Throughout these previous cases of censure a position has progressively built up that the Commission favours a supranationalist approach towards democratic legitimacy thereby increasing the influence of the European Parliament.

The vast majority of scholarly work on the censure procedure focuses on the events that led to the 1999 resignation of the Santer Commission College. It is a complicated affair that covered over three years of investigations, “In November 1995 the Court of Auditors refused to certify the EU’s annual accounts after discovering that nearly £3 billion was not properly accounted for” (Miller and Ware 1999 p.11). Understandably this caught the attention of the European Parliament given its duty of discharging the budget. Because of the controversy it was decided to postpone this decision until the allegations were investigated and clarified. The Court of Auditors conducted a series of investigations and the European Parliament demanded answers. In order to grant discharge the Committee on Budgetary Control within the European Parliament pays close attention to the findings of the Court of Auditors. In scrutinising the Commissioners, the Committee on Budgetary Control concluded there were three main failings remaining. These were, “a lack of democratic accountability, a lack of coherence and sound financial management in external policy areas, and a failure to improve administrative and budgetary management systems” (Judge and Earnshaw 2002, p.350). The

Committee still managed to vote on approving the budget, though in plenary this was not the case and the chamber went against the Committee's recommendation. This is where things became most interesting and politically confusing as Pauline Green, the former leader of the Socialists, tabled a motion of censure, and then removed it. The motion itself was to be tabled as a vote of confidence as Green supported the Commission's reform agenda. Again this takes the original use of this power and attempts to use it in a fashion it was not designed for. When Socialist MEPs began to declare their intentions to vote in favour of the motion of censure Green was forced to remove it. In the meantime another motion of censure was put forward, going to a vote, but was narrowly rejected showing there were serious divisions over how to proceed. The Commission, "in return for the support of the Socialists, the largest grouping in the Parliament, agreed to the establishment of a Committee of Independent Experts to inquire into the allegations" (Laffan 2003 p.774). Tabling numerous motions of censure here caused not only confusion but belittles the democratic process of accountability as no restrictions are currently in place regarding multiple censures. Divisions over how the European Parliament should proceed led to confusion and uncertainty. In the end the bargaining of the Commission was able to secure enough votes to stay in power for the time being. The threat of censure forced the Commission to undergo an investigation into its behaviour, a process which side-lined Member States in their ability to control events. In relation to other institutions the European Parliament was leading the agenda and pursuing its own desired outcomes over any intergovernmental wishes. What remained to be determined at this point was could the supranational forces at work provide an outcome that enhanced the democratic functioning of the European Union given Member States supported the Santer Commission.

With the Committee of Independent Experts finally producing its findings a number of MEPs felt justified in calling for further action to be taken, namely the individual resignations Edith Cresson. However this issue included efforts by Member States to influence not only MEPs but also Commissioners themselves. According to Judge and Earnshaw, "The potency of national interests in the resignation issue was starkly revealed in the refusal of French Prime Minister Lionel Jospin to support calls for Cresson's resignation" (2002, p.354). It is not surprising to find Member States in a position of exerting or at least attempting to exert influence over the behaviour of MEPs and Commissioners. Each institution is free to call for support from other actors and in many cases openly criticise their behaviour. There is a fine

line for Member States in being seen to be supportive/critical and instructing other actors how to behave. The important distinction to be made is that the Commission was appealing to the European political parties, namely the Socialists, and not the Member States to control the actions of MEPs. This weakens the argument by liberal intergovernmentalists that Member States are able to exert their preferences on decision-making outcomes. Instead a clear dialogue was emerging between the Commission and European Parliament as a means to solve the crisis at the expense of Member State influence.

When a statement was made by the Commission instructing the European Parliament to grant discharge or move ahead with an effort to censure, it was not taken kindly. Such instructions on behaviour led former President of the European Parliament Pat Cox to claim the Commission's statement interfered with the sovereignty of the Parliament and that it had no business instructing MEPs on how to behave (European Parliament 1998). What is not so widely discussed in reference to this crisis is the behaviour of MEPs themselves in criticising each other's behaviour. Rather than behaving as a unitary actor the European Parliament was subject to strong political party divisions over how to proceed, "Mrs Green has accused the Tories of playing party politics, as all the targeted commissioners are centre-left or radical-left" (BBC 1999). This is interesting because it focuses Green's criticisms on national differences rather than European political party differences in the behaviour of MEPs. Even more interesting is the response of the EPP leader at the time, "Now that the expert's report has confirmed that a number of socialist Commissioners are guilty of serious mismanagement, they are calling for the whole Commission to resign. This is clearly an attempt to cover up the responsibilities of their Commissioners" (Martens 1999). It appears the importance of political ideology has become so intrinsic in how actors views each other's behaviour, for Ring, "the partisan composition of the EC seems to be one of the elements determining the relationship between EP party groups and the EC" (2005, p.674). Conflict within the European Parliament only served to weaken the European Parliament's ability to tackle the issue adding to the explanation behind why it took so long to be concluded. With clear splits emerging between the political parties it remains unclear if the European Parliament could resolve this issue through supranationalism, whereas at least the Member States were in agreement Santer should continue unimpeded. Failure to find consensus and act accordingly was prolonging instability among European Union actors'.

Though divisions were clear, broad support is what eventually resolved the issue. The European Parliament had the majority necessary to pass a motion of censure forcing the Santer Commission to resign pre-emptively. Positives from the crisis have been put forward, “There will be more parliamentary control of the Commission and more democracy in the European Union. This is a new beginning after months of crisis and transition” (Pöttering 1999a). It has been treated as a watershed moment for the European Parliament in pushing forward the accountability of Commissioners. The Commission College was placed in a position where its choices were limited; resign or be removed. It might have taken years of investigation but certainly vast reforms have since been undertaken. The Kinnock reforms launched in 2000 saw drastic changes to the behavioural practices within the institution such as clearer guidelines on whistleblowing and stricter financial management. The reform itself was based on, “independence, responsibility, accountability, efficiency and transparency” (European Commission 2000). This is a clear indication of MEPs improving the institutional framework through democratic reform from the resulting conflict. The opportunity was also used by MEPs to call for changes to the censure procedure itself. A resolution was passed containing, “Demands of the Council that a procedure be laid down as soon as possible which enables individual Commissioners to be called to account” (European Parliament 1999, B4-0327). Again this request to reform the censure procedure was ignored. These calls seem to carry no favour within the Council and ultimately the European Parliament is powerless to change the procedure.

With such a historical development through the resignation of the Santer Commission it might be expected in recent years the European Parliament has professionalised its use of the procedure. The remaining two motions of censure occurred in 2004 and 2005 with the former surrounding the Eurostat scandal. In this instance, fraudulent activities going back as far as the 1990s were deemed by a number of MEPs to warrant a motion of censure. As a result of the time delay the motion of censure could only be directed towards the current Commission College and explains why the motion failed with only eighty-eight MEPs voting in favour. According to Françoise Grossetête MEP, “the signatories to this motion actually have no other objective than to sully the reputation of the Commission, which, although it can be criticised for its management of the Eurostat matter, certainly does not deserve a vote of no confidence from Parliament” (Grossetête 2004). This was at a time when enlargement issues generated concerns over the future of the European Union as a major expansion was

underway and can be interpreted as a politically motivated manoeuvre. MEP Avilés Perea certainly backs such claims by stating, “There is no justification for this motion; it is a purely electoral issue for the signatories, who have in common, amongst many other things, their anti-European sentiment and militancy, their Euroscepticism and their constant campaign against the European institutions.” (Perea 2004). This timing dimension coincided with the fact that European Parliamentary elections were occurring in a matter of weeks and MEPs seeking re-election favouring Euroscepticism would serve their interests by being seen to question the establishment.

Then what of the 2005 attempt to censure the Commission, as elections had taken place and a new parliamentary chamber and College was installed? This latest motion of censure centred on a conflict of interest between European Commission President Barroso and shipping magnate Spiro Latsis. It was revealed in 2004 that Barroso had spent six days holidaying on a yacht belonging to Mr Latsis who benefited from Commission decision-making on maritime issues, such as a ten million Euro grant. The dates appear to be central in Barroso’s stated defence, “A spokeswoman for the President said that the case to which the MEPs were referring was a decision taken in September before Mr Barroso took office” (Europolitics 2005), though, the nomination for Barroso as Commission President was made at a European summit on the 30th of June. In this respect Barroso was still involved at some level within the European Commission. In events leading up to the motion of censure, MEP Nigel Farage questioned Barroso for clarification on the matter. Barroso did address the matter directly in a letter to the European Parliament’s President on 22nd April and from this the four largest political parties appeared content with the explanation given (Euobserver 2005).

Once again though, the question of timing for the motion appears to be of relevance. Cited in one BBC article, Barroso argues, “The true agenda of this sort of attack is to undermine the credibility of the Union's institutions and its work of integration, replacing the debate on ideas with the fabrication of alleged scandals” (BBC 2005). This argument does gain support from the fact many of the signatories on the motion of censure come from a Eurosceptic stance. It is also all the more relevant given the opening remarks by Farage at the motion of censure debate, “I am conscious that many of you would much rather be in France campaigning for a yes vote” (Farage 2005). This was a reference to the French European

Constitutional referendum taking place only a few days later. In this respect the timing of the debate could not have been more sensitive and certainly distracted efforts for Barroso's Commission to promote the treaty. The motion of censure unsurprisingly failed to pass only achieving thirty-five votes (less than half of the amount of MEPs that it took to put forward the motion in the first place). As Sir Graham Watson MEP points out, "There are plenty of other parliamentary and political means to raise concerns of conflicts of interest that do not require use of a sledgehammer to crack a nut. Abuse of a censure motion like this means it loses its significance when it really matters." (Watson 2005). Sadly this is true in that abuse of the censure procedure in this case not only wastes time and resources it also has the effect of diluting what the power represents, belittling it to a petty political manoeuvre.

The 2005 instance seems to have been induced simply to question Barroso. The official reason given "for this motion of censure is that it is the only means of ensuring that Commission President José Barroso appears before it in plenary" (European Parliament 2005a). Debates themselves are a common occurrence in the parliamentary chamber and MEPs are free to address questions towards the Commission in writing at any time. A small minority of MEPs should not be able to abuse valuable parliamentary and Commission resources through the censure procedure on a matter already settled among the largest political parties. Changes were made as a direct result of this incident. Added to the Framework Agreement on relations between the European Parliament and the Commission, "The President of the Commission shall be fully responsible for identifying any conflict of interest which renders a Member of the Commission unable to perform his or her duties" (European Parliament 2005b). This has been built upon in 2010 Framework Agreement showing the capability of MEPs to react to new areas of accountability. Transparency in the role of the Commission President removes the potential for accusations to be made where party politics is the real motive as these guidelines ultimately makes it clearer for future reference.

Compromise also came in the form of the President of the Commission agreeing to take seriously any expression of lack of confidence in a Commissioner by the European Parliament. This was originally "subject to political support for such a view, in terms both of substance and of form" (Official Journal 2001, C 121 p.124). However the updated

Framework Agreement does mention the same level of detail it previously did on what constitutes a lack of confidence. Instead, if the request is ignored the President of the Commission is required to explain this decision before MEPs. As one working document argues, “a refusal to accept the Parliament’s vote of no confidence, therefore, will risk the survival of the President himself. MEPs have found the escalator that will lead them, if necessary, to a position where they can use their constitutional ‘nuclear option’” (European Parliament 2004a, p.11). This ‘nuclear option’ refers to the censure of the entire Commission College. As a result, in principle a method for Parliamentary influence in removing an individual Commissioner appears to be in place.

This raises an interesting argument surrounding the long-term interests of Member States. As Moravcsik argues, “Only where the actions of supranational leaders *systematically* bias outcomes away from the long-term self-interest of Member States can we speak of serious challenge to an intergovernmentalist view” (Moravcsik 1993, p.514). This viewpoint seems restrictive in understanding the vast majority of decision-making that would not be attributed against the short-term interests of Member States. Then we have the censure procedure that fits neither category but cannot be excluded as a means of understanding the functioning of European Union democracy. As shown attempts to censure the Commission College are unpredictable and sporadic but at the same time it can potentially impact the interinstitutional relationship on the highest level. As 1999 showcased, “Despite the cohesive positions taken by some countries, the European political groups were the dominant actors in the formation and termination of the Santer Commission, and the battles between these groups were predominantly along the left-right dimension of politics” (Hix *et al.* 2007, p.198). In such a case, preferences were formed endogenously as the European Parliament acted independently of national interest to force change upon the Commission College. This is not attributed to all motions of censure as some have been questionable but it remains a power capable of implementing a defining moment of change.

Further clarification on individual resignations and motions of censure certainly seem to be in order. As mentioned the threshold for forwarding a motion of censure can be part of the problem with only ten per cent of MEPs required to begin the process. This number is significantly low when contrasted against the number required to pass the motion.



Additionally as Magnette explains, “the procedures of appointment and censure, along with some legislative discussions that are covered by the media constitute, for the largest segments of European public opinions, the visible part of the iceberg” (Magnette 2001, p294). Therefore being seen to use these powers responsibly can contribute towards strengthening the public’s perception of democracy in the European Union. Making it easy to debate a motion of censure is enough to cause political instability. It has been used concerning matters more trivial than deserving of a mass removal of the College. Raising the threshold to debate a motion of censure would protect the integration project from being hijacked into uncertainty. An argument could be made however that at least being able to partially use the motion of censure more readily reminds the Commission of its need to function accordingly and in cooperation with the Parliament. What future changes may occur can be defined between the Commission and the Parliament and in this sense the intergovernmental control has been weakened.

Flaws in this procedure have been highlighted and it has remained relatively unchanged since its inception. As Former MEP William Abitbol argued “we are not capable of organising a debate, worthy of a Parliament deserving of that name, on censure, which in all of our democracies, is an important moment in political, democratic and parliamentary life” (Abitbol 2004). For these reasons it would be wise to see some debate on reforming this procedure beyond simply requesting further censure empowerment. Improvements could be made on clarifying stricter conditions on what merits its use or at the very least stipulating how it should not be used. As mentioned the threshold for enacting its use could also be raised considering the four largest political parties are unable to provide a blocking majority against the efforts of a minority. It is also possible for such a minority to continuously table motions of censure as there is no cooling off period in place like that of the need for a twenty-four hour gap between receiving the motion and holding the debate. What has been evident is that without the support of the Member States censuring the Commission College is made all the more difficult but not impossible. If the European Parliament is to be successful in further altering the behaviour of the Member States and Commission College it must show greater unity when using its power of censure and do so in a more professional manner.

## Conclusion

As shown the European Parliament has become significantly involved in the procedures for appointing and removing the European Commission. Through appointment, Commissioner-designates must now fulfil a number of requirements in order to secure a successful vote of approval from the European Parliament. These range from a disclosure of financial interests to lengthy questioning by parliamentary committees which allows for MEPS to scrutinise their opinions prior to the hearing. One of the clear benefits in making this process more democratic has been the willingness of the Commission and European Parliament to cooperate in enhancing this procedure where possible. Commissioner-designates' financial history is now independently scrutinised and portfolio allocation is more transparent through deliberation with the President-elect. Member States have interestingly not lost any powers over their ability to nominate candidates although the legitimacy in appointing the Commission College now comes from a supranational perspective. In addition Member States are no longer in a position to determine whether their candidate is successfully appointed without supranational considerations. The European Parliament has shown in the Jeleva case study it is willing to directly challenge the European Council's view on which candidates are suitable. This is where the real benefit to the democratic process is found in that now Commission-designates are held accountable on their competence and suitability, rather than national considerations, strengthening democracy through supranationalism as a result. It has also been noted that party affiliation does have an impact on a Commissioner-designates' support, particularly as European political parties have a vested interest in supporting their affiliated candidates. However this should not be taken out of context as explained previously this is a factor in all parliaments. The important point to note is that within the European Parliament cross party support is able to counter bias.

From a theoretical perspective this does not entirely fit the liberal intergovernmental approach as Member States preferences clearly restricted. They can longer pick and choose candidates as they see fit and the Commission is favouring closer supranational ties through legally binding interinstitutional agreements. In doing so the influence of the European Parliament relative to intergovernmental institutions has grown considerably over the years. For these reasons the inclusion of sociological institutionalism offers an alternative

perspective by which to interpret these events. With its ability to account for the independent nature of European Parliamentary influence and attempts made by MEPs to impose their preferences on Member States, sociological institutionalism is able to account for liberal intergovernmental failings. This has become further apparent in the use of the censure procedure where against the wishes of the Member States, the Santer Commission resigned and supranational ties have been strengthened. The development in reaching this stage has not come without drawbacks as MEPs have had to reform their approach in the use of censure through trial and error. Unreasonable instances of censure have been previously tabled resulting in a clear violation of the procedure which questions the democratic ability of MEPs. However, it should not be a surprise the European Parliament has made mistakes. The important point is that MEPs have made genuine efforts to solve this inadequacy through cooperation with the Commission in how compromise over disputes regarding individual Commissioners can be resolved amicably without disruption to the democratic functioning of the European Union.

## **Chapter 5: Enlargement of the European Union**

### **Introduction**

While enlargement is a simple term used to describe the inclusion of new Member States, it is by no means a simple process. Expanding can take several years, generating debates over some of the most fundamental issues of democracy and propagating disputes on an international scale. Comparing one round of accession to another is a difficult task made all the more complicated by the changing institutional framework. Undertaking any expansion or further integration is a calculated risk where checks and balances are essential. This is all the more relevant given the recent consequences the integration project is now subject to because of mistakes made during the initial assessments in forming the Eurozone. The European Parliament is favourably positioned in providing certain checks and balances; ensuring enlargement policy is formulated democratically, in the best interests of the integration project and the acceding member. It is also able to participate in offsetting political pressure on candidate countries to relinquish closer ties with the European Union. As enlargement policy continues to look Eastward, Russia has become hostile towards further European integration in the region. As Vice-Chairman of the EPP argues, “We have to admit that we are on a collision course with Russia. It is Russia who has taken a confrontational course. We need a contingency plan and swift action.” (Saryusz-Wolski 2013). This explains the European Parliament’s active role in promoting the European Union’s foreign policy objectives and supporting such initiatives as “freeing wine trade with Moldova to offset Russian trade sanctions” (European Parliament 2013). It is no longer a course of action Member States can take alone and MEP support is vital in order for potential members to adopt the necessary reforms.

Cooperation is thus of central importance in understanding not just the role ascribed to the European Parliament but also how successful MEPs are in influencing enlargement policy as a whole. Criticisms in the past have seen instances of European Parliamentary opinions being sought too late, poor access to documents and even accusations of delay tactics by some institutions and actors in order to secure concessions. The sharing of knowledge and expertise

between institutions is a vital component of democratic pluralism in action. Each institution brings with it different resources and areas of expertise. The institutional framework has adjusted many times over the years and just how this translates into actual interaction will determine how effective the European Parliament can be. Additionally this leads to concerns over institutional conflict where it might arise, particularly with regards to how this is resolved. Today's European Union is an interconnected system of institutional exchanges. More than ever the smooth functioning of decision-making is in the interests of all European Union institutions. It will be worth investigating under what conditions conflict has transpired regarding enlargement policy. Institutions have after all in the past jostled over influence or even attempted to go beyond their designated area of competence. In order to justify a democratic system of decision-making, a democratic system of resolution must be observable in a professional manner if and when disputes do arise, with the possibility in this evaluation to identify where improvements could be made.

This will mean paying close attention to the opportunities available where institutions interact such as through direct meetings, exchanges of correspondence and ultimately the outcome of decisions made. As such the behaviour of European political parties must be responsible and able to function collectively in order to influence the process. For these reasons the work of the Foreign Affairs Committee and Joint Parliamentary Committees (JPC) must be incorporated in discovering what benefits the European Parliament adds to the legitimacy of enlargement policy? Applications for membership are made directly to the Council of the European Union with the European Commission having a strategic monitoring role of candidates. With this mix of intergovernmental and supranational forces at work the theoretical approaches of liberal intergovernmentalism and sociological institutionalism will be useful in a number of ways especially, as the European Parliament has aided in a transition away from Member States fully controlling the conditions of enlargement. This examination will benefit from two such theories that stand to explain the behaviour of both the supranational and intergovernmentally represented institutions central to this process. Before any of this can be undertaken it will be useful to first examine the previous literature concerning enlargement of the European Union.

## Literature Review

Decision-making in enlargement policy is quite different to that of the European Parliament's role in making appointments. The amount of literature on this topic has expanded over the years; "one strand of the literature has focussed on explaining the reasons for enlargement, a second strand has addressed its consequences" (Bailer *et al.* 2009, p.163). Relying on a mechanism once dominated by Member States in widening European integration appears to have strengthened the determination of the European Parliament to become more involved. As pointed out, "transnational party politics in the European Parliament counterbalances national-interest based politics in the EU Council" (Hix *et al.* 2006, p.509). Member States motives can be construed as being driven by national self-interest therefore the European Parliament can bring ideological issues to the forefront of enlargement policy. Schimmelfennig for example, embeds his analysis in the debate between, "rationalist and sociological or constructivist approaches to the study of international institutions in the international relations discipline" (2001, p.47). In doing so Schimmelfennig attempts to answer why the European Union set into motion the enlargement process for Central and Eastern European Countries (CEECs) rather than settling for association agreements. According to Schimmelfennig, "actors who can justify their interests on the grounds of the community's standard of legitimacy are therefore able to shame their opponents into norm-conforming behaviour" (2001, p.48). This method certainly adds to the understanding of enlargement policy though it does not sit well with all authors as a means of explanation. For example, Moravcsik and Vachudova argue, "Interstate idealism seems never to be as powerfully professed as when it runs parallel to material self-interest" (2003, p.50). Sjusen (2002), adopting a competing sociological institutionalist perspective, makes quite clear the reasoning for favouring such an approach towards enlargement because it goes beyond mere pragmatic concerns to include discussions beyond economic interests. The example of Spanish support for enlargement is used given that Spain would be at a net loss due to the economic needs of the new Member States. This theoretical conflict has certainly pushed the debate forward though it does not seem both competing viewpoints can claim total dominance at the expense of the other. For example Moravcsik and Vachudova make it quite clear, "We do not claim our analysis is comprehensive, only that it seeks to capture the most significant of the underlying forces in play" (Moravcsik and Vachudova 2003, p.42).

Therefore both theories offer insights that will require further attention in a possible means to complement each other's claims on primary forces.

Given that the European Union recently saw its largest enlargement yet a great deal of research has understandably emerged surrounding this event. Even before the CEECs joined, scholars began work into the likely impact of such a large scale widening. For Aleskerov *et al.*, "The critical question is whether the new members could pose a serious challenge to the existing institutional balances within the EU and endanger future institutional deepening" (2002, p.379). This issue has been subject to much debate within the European Parliament. MEPs have pushed forward these issues to prepare the institutional framework for yet further widening, a subject Dinan (2007) explains well, as enlargement had impacts on not only institutional reform but on other candidate countries status such as Turkey. Aleskerov *et al.* (2002) make the claim fractionalization would be likely to occur within the European Union institution's including the European Parliament. However Bailer *et al.* are of the belief that, "EU actors seem to be preoccupied with their desire for efficient decision-making processes rather than an obvious desire to dominate. As to the new members, they have integrated rather smoothly into the existing Community" (2009, p.170). In this area the European Parliament has taken upon itself to ensure new Member States are integrated as efficiently as possible as with diversity comes the possibility for complications and periods of adjustment.

Beyond concerns of institutional repercussions, scholars attempted to compare results before and after enlargement with the European Parliament offering a promising forum for comparison. One view point offered by Dinan claims there is a, "noticeable tendency for MEPs to divide along national lines more than political groups on sensitive policy issues" (2007, p.69). Spurred by such viewpoints some authors went about rigorously testing these claims in an effort to examine voting patterns after such a wide scale enlargement. It is not unexpected that MEPs from new Member States initially vote more carefully and pay particular emphasise to national concerns. It is the European Parliament's responsibility to ensure new MEPs integrate adequately and Hix and Noury found that among these new parliamentarians there were, "stable levels of party cohesion [...] that formed mainly around the left-right dimension" (2009, p.159). Although Hix and Noury do concede nationality did have a part to play in explaining new MEPs voting behaviour over nationally sensitive issues.

However it should be noted through time this may fade as these parliamentarians integrate further into the supranational process.

One area of research relating to enlargement that has received particular attention regards the impact of European Union governance on the Central and Eastern European countries (CEECs) in promoting democracy. An issue the European Parliament has been particularly interested in as the promotion of democracy in a region once devoid of political freedoms has been significantly shaped by the criteria the European Union imposed on candidate members. According to Schimmelfennig and Sedelmeier, “the desire of most CEECs to join the EU, combined with the high volume and intrusiveness of the rules attached to its membership, have allowed the EU an unprecedented influence on the restructuring of domestic institutions” (2004, p.661). Monitoring the restructuring of several countries institutional framework is not a simple task and for this cooperation among the European Union’s institutions is a necessity to ensure democratic values are not sidelined. Such bold reforms have been made possible, Dimitrova (2002) argues, because of the fragile situation the CEECs have found themselves in following the collapse of Communist regimes. Schimmelfennig and Sedelmeier pick up on this argument in that the European Union may have had some external pressure on installing more democratically minded governments, “the EU’s conditionality appears to have been successful in locking-in democratic change, even if the former authoritarian parties subsequently returned to power” (Schimmelfennig and Sedelmeier 2004, p.670). This snowball like effect makes it harder for deviation from the path towards accession that so many new Member States have thus accomplished from Eastern Europe. Dimitrova (2002) points out that too much external governance on candidate countries may have the ill effect of diminishing the input of domestic political actors. The consequence of this may result in hostility towards the dominating effect imposed at the national level. Precisely the topic Levitz and Pop-Eleches consider by providing evidence that new members have not used there, “newfound freedom to push back against the external imposed reforms of the preaccession period (2010, p.469), a process the European Parliament has devoted a great deal of resources towards in making sure candidate countries not only meet the criteria but that the European Union is capable to adopt new members.



## **Copenhagen Criteria**

The Lisbon Treaty did not radically overhaul the basis for enlargement policy but it does introduce some interesting changes for this research. One change sees the introduction of a formal procedure for Member States leaving the European Union. Here the European Parliament is given the power of consent but negotiations themselves are conducted within the Council (Treaty on European Union Article 50(2), 2010). This new mechanism may bring with it further considerations in future reforms as it raises a discussion on a wide range of permutations. These include the possibility of excluding a Member State or the conditions under which a Member State like the United Kingdom breaks up part of its own union. Automatic inclusion of any new independent country in the European Union should not be taken for granted. These concerns may be unwarranted for any treaty inclusion though it should be made as clear as possible under what conditions accession can take place. For this reason it is all the more interesting that the Lisbon Treaty does not formally include the Copenhagen Criteria created in 1993 by the European Council as a series of conditions for membership on applicant states. These general guidelines include clear considerations for human rights, the rule of law and democratic governance. Instead only a reference is made that, “The conditions of eligibility agreed upon by the European Council shall be taken into account” (Treaty on European Union Article 49, 2010). But the very absence of their direct reference within the Treaties raises some points worth discussing. For Volpi this omission is not as strange as it seems, “there is no legal provision conferring jurisdiction upon the European Court of Justice (ECJ) on the matter” (2011, p.4). This effectively protects Member States from receiving a legal challenge over a decision denying a country membership status. It also leaves open the possibility for Member States to change the conditions of eligibility to suit their own needs. The European Parliament has proved successful in adding considerations to the eligibility criteria (as Spain’s initial request for membership showed), though it would be more difficult to remove a condition if Member States made the criteria more stringent. This effectively protects the intergovernmental nature of the Copenhagen Criteria as MEPs operate from a position of conditions set by the European Council.

The very existence of eligibility criteria does introduce to a common set of standards on view for all to see. It also weakens the position Member States originally held when criteria was a

purely intergovernmental issue and lacked any real accountability. Criticisms have even been put forward regarding the enforcement of the Copenhagen Criteria in one report published by the House of Commons Foreign Affairs Committee in the United Kingdom. This report claims that in the past a lack of stringency has become apparent in how the European Council implements its own accession criteria (2008, p.48). For example, the Copenhagen Criteria were not strictly applied in relation to Estonia and Latvia with regards to border disputes. If standards become questionable then this also has an impact on how serious candidate countries attempt to fulfil their obligations. Csaba Sógor MEP (2010) points out some candidate countries were not taking the Copenhagen Criteria seriously because of the actions of recently joined Member States such as Slovakia introducing a State Language Law. Beyond this even actors within the European Union have been accused of picking and choosing how stringently to enforce the Copenhagen criteria. As Indrek Tarand MEP points out, “I am not sure Romania and Bulgaria were filling all the Copenhagen criteria if it had been examined really by the book” (Tarand 2011). This places Member States in an advantageous position regarding the enforcement or lack of in how candidate countries are judged. Arguments have been raised though that the Copenhagen Criteria is too rigid as according to Foster, “The Helsinki Summit also marked a realization that the Copenhagen criteria could not be strictly applied and that some flexibility had to be exercised” (2008, p.18). This is why the inclusion of the European Parliament to enforce realistic democratic checks on proceedings becomes so vital.

Border disputes may not have hampered Estonia or Latvia, though Croatia has had a more controversial judgement. This was pointed out by Bernd Posselt MEP; “If history were in any way just, Croatia would have acceded to the European Union at least three years ago, together with Hungary, Slovenia, the Czech republic and other countries with which it shared a history and a culture” (Posselt 2007). Even with no formal role in which countries are given candidate status MEPs have used the European Parliament as a forum for scrutiny on the actions of Member States. The process is opened up beyond that of an institution empowered to give parliamentary approval to accession treaties. Though, it cannot be taken away that intergovernmental forces dictate when the European Commission can begin its role in monitoring preparations for membership. For Kristian Vigenin MEP and member of the Foreign Affairs committee, though the European Parliament can bring additional benefits to the accession process, “we have the possibility to draw the attention on specific political

issues not only the basic criteria which are directly followed by the Commission” (Vigenin 2011). This additional level of input, while not a necessity of Parliamentary activity, does nonetheless create opportunities for the European Parliament to address issues otherwise overlooked surrounding criteria. This input will need to be addressed in other areas beyond accession criteria, though it is evident the European Parliament benefits in some way from its exclusion.

### **Consent Procedure**

The Consent Procedure is the legislative means by which the European Parliament accepts or rejects the accession of a candidate country. According to a publication by the European Commission, “Every major decision leading to a country’s accession is taken unanimously by the governments of the EU Member States in the Council of the European Union. The members of the European Parliament, who are directly elected by EU citizens, have to give their assent. Thus, all of the key decisions are taken by the relevant democratically elected bodies in each member state and at EU level” (European Commission 2009). From descriptions like this, enlargement policy is often heralded as constituting a democratic system of decision-making. However the European Parliament’s participation through the Consent Procedure has raised mixed opinions regarding its usefulness. According to Jones the withholding of parliamentary assent created “a bargaining chip for something else, it was a very blunt weapon” (2011, p.22). In 1989 this was the case as the European Parliament adopted a resolution regarding Austria’s application for membership stating assent could be granted on the basis Parliamentary rights were increased (Bieber 1990, p.161). This power is only initiated once negotiations themselves have taken place and the European Parliament is faced with an option of accepting or rejecting the accession treaty. The Consent Procedure allows no opportunity for alterations to be made by parliamentarians placing the European Parliament in a position where it may veto any accession over what might be minor issues.

Because the European Parliament has made requests regarding institutional changes in order to grant parliamentary consent on accession treaties, this does not equate to an abuse of this power. Enlarging the European Union brings with it a number of complications each

institution will view differently. Therefore with the European Parliament vetoing any accession treaty it is vitally important to understand why this might have occurred. The parliamentary veto here helps provide a democratic check on who can gain membership. Concerns might be raised if this power was being abused but for Franziska Keller MEP, “There is no feeling among MEPs that we have to veto things just because we want to get attention” (Keller 2010). There are many reasons why blocking or vetoing proposals would be tempting but when such action occurs it should not be assumed it is for selfish reasons. For Vigenin MEP, “There is this culture already that you have to find a compromise and that you should not block, because you can block for sometime but then you become guilty for not having a decision. This is a powerful gun that should not be used.” (Vigenin 2011). This cultural aspect Vigenin describes is something that has steadily progressed in European Union decision-making, an area liberal intergovernmentalism has trouble accounting for. For an interpretation of this cultural influence restricting behaviour we have to turn towards sociological institutionalism for an explanation; “The social values that support and legitimate some organizational forms and not others, some social activities and not others, are cultural values.” (Finnemore 1996, p.329). Rather than use their position as leverage to gain constant concessions, the European Parliament has instead argued for further treaty empowerment. In a report adopted by the European Parliament in 2006 the view was taken, “that the assent of Parliament, required for Council to act under Article 49 Treaty on European Union on the accession of new Member States, should apply to the decision to open negotiations, as well as their conclusion” (European Parliament 2006a). This suggests that greater democratic control over the enlargement process is further desired even if this request was rejected. At present there is no parliamentary check on which country can be granted candidate status. In some ways a parliamentary veto over which country can be awarded candidate status is just as important as vetoing an accession treaty. For the time being however awarding candidate status to a country remains a power firmly held by Member States. Because the European Parliament is not officially empowered by the treaties as a participant in the negotiation stage it must rely on the ability of other institutions to ensure democratic standards are met in candidate countries. This situation leaves the European Parliament in more influential over acceding countries once they join the European Union, as this way it has more control over what democracy is ‘exported’.

What the Lisbon Treaty did introduce though was a formal method of informing the

European Parliament that a request for membership had been received. As article 49 of the Treaty on European Union states, “Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application” (Article 49 TEU). It further stresses applications will be made directly to the Council which will act unanimously after seeking the opinion of the Commission. Though somewhat short of any power of consent this formal procedure for informing the European Parliament does emphasise the need for parliamentary involvement early on. But it should be remembered that with any future applications for membership the Council is the first port of call and the whole process begins here. This has raised concerns about how the Council deals with such requests for membership as Article 49 of the TEU leaves room for interpretation about how exactly this procedure should be followed. For Hillion, “This leaves the door open for individual Member States to delay a country’s accession to the Union even before negotiations have been opened, by refusing to ask the Commission to prepare its Opinion” (2010 p.24). Such instances where Member States have been able to effectively shut down a candidate country’s application, as Slovenia appeared to do regarding Croatia; the European Commission has proven itself a capable mediator as shown by an arbitration agreement tabled by Enlargement Commissioner Olli Rehn (Euractiv 2009). This explains why the European Parliament has introduced into its Rules of Procedure a mechanism for requesting a debate with the Commission and Council before negotiations with an applicant state take place (2012b Rule 74C 2). Through such actions the European Parliament has introduced a mechanism for addressing any concerns over awarding candidate status even though its attempts to gain the power of consent were blocked. It should be noted any such request could for a debate could be ultimately denied by the Council. However the very existence of this procedure shows the European Parliament is not letting the intergovernmental nature of the application process thwart its attempts to provide an avenue for influence where required. Because of this the democratic process is strengthened as the European Parliament takes an early interest in how the Council deals with membership requests. By inviting actors to explain their actions in front of MEPs the European Parliament is not only making the process more transparent but holding the decision-makers accountable from the offset.

## **Integration Capacity**

Along with the outlining of the Copenhagen criteria in 1993 it was also recognised that the ability of the European Union to absorb new members should be taken into account. Even as far back as the very first round of enlargement, “One fear about the accession of Denmark, Ireland and the United Kingdom was that it could affect the capacity of the Community to work efficiently and further complicate progress in Community policies” (Piedrafita 2008, p.1-2). The European Parliament has been at the forefront of this debate in recent years and provides an excellent opportunity to examine how its participation has influenced this issue. Even though the capacity of the European Union to cope with enlargement has always been a concern there was a lack of clarity surrounding any definition. Concerns over absorption capacity were to be brought into the spotlight by the fact in 2004 eight new Member States joined the European Union. It was in the Commission’s 2005 enlargement strategy paper where this consideration was mentioned as being in the interests of candidate countries and the European Union, though precise clarity about what factors determines absorption capacity remained unclear. For some like former MEP Joost Lagendijk, “the concept of absorption capacity was largely used by those who are against further enlargement and especially Turkey joining” (Lagendijk 2006). This explains why the European Parliament sought further information on absorption capacity requesting “the Commission to submit a report by 31 December 2006 setting out the principles which underpin this concept” (European Parliament 2006a). Followed by the European Council making a similar request (European Council 15/16 June 2006, p.18), the debate within the European Union on this matter heightened and pushed the European Parliament to begin working on an own-initiative report. This pressure by MEPs for further clarification forced the issue into the forefront and within only a few months clarity was provided. In a speech by the Commissioner for Enlargement, Olli Rehn stated absorption capacity regards, “various dimensions: economic, financial, institutional, democratic” (Rehn 2006). Ensuring clarification on such complicated matters is something the European Parliament has been successful in accomplishing and makes the process all the more transparent.

Just how important defining criteria conditions for enlargement have been can be shown through the work of the House of Lords as it claimed the European Parliament, “reminded

EU governments (inaccurately)” (2006, point 144), that absorption capacity constitutes one of the conditions for criteria. Instead the House of Lords puts forward that the view it is merely a consideration. As Rehn states, “The 1993 Copenhagen European Council defined it as an important consideration” (Rehn 2006). Three different institutional opinions of defining absorption capacity only lead to undermine the process of enlargement. It is difficult to determine how influential integration capacity would be without the input the European Parliament has drawn to this issue but what is certain is that it has gained much needed attention. According to Alexander Lambsdorff MEP, “the European Union’s capacity for integrating new members [...] is not a new criterion, but an important element neglected in the past” (Lambsdorff 2006). If standards for accession are not clearly understood and accepted it puts at risk the European Union’s ability to function with confusion existing among the institutions involved. It also defines under what conditions Member States can block or accept the membership bids of countries wishing to join. Just how important the language of policy has become is expressed clearly by Vigenin MEP, “Sometimes we fight for single words even if honestly speaking it’s to my opinion it’s not really that important, but it is important what is the change.” (Vigenin 2011). This ties in with the change of language by the European Parliament’s Stubb report stating the European Union’s capacity to absorb new members is “an important consideration” (European Parliament 2006b). It is also pointed out by this report absorption capacity would be better described as integration capacity as the European Parliament set out to exert its own opinions on the debate as a whole (European Parliament 2006a). This request was accepted as the European Council accommodates the European Parliament’s wishes backed up by the Commission change in using integration capacity making the term a widespread replacement. This debate seems to have led to considerable institutional cooperation as Paula Lehtomäki representing the Council states; “The Presidency will of course take due account of the reports on enlargement strategy and integration capacity being discussed today, as well as the views expressed by the European Parliament in general” (Lehtomäki 2006). It is through these efforts Parliament has helped clarify and further legitimise the terms under which new members join the European Union.

Understanding the debate on integration capacity was also about a discussion on what the European Union was reforming into. As closer political integration has occurred over the years the pressure from the European Parliament on ensuring this is democratic has also increased, though not all MEPs agree on what direction the European Union should take in

order to secure democracy while enlarging. For example, some like MEP James Hugh Allister argued against the need for an expansion of competences to the European Union, “enlargement itself requires none of this” (Allister 2006). Others like former MEP Richard Corbett express, “the two processes – enlargement and reform – will go together; they will drive each other forward” (Corbett 2006). With such diverse opinions within the European Parliament all of these points have been expressed in a public forum in front of both representatives from the Council and the Commission. This provides an opportunity for transparent views that no other institution is as capable of providing. The European Council prefers to keep disputes private and the Commission is bound by collective responsibility. Whereas the European Parliament by its very nature is a centre for debate on wide ranging issues. It also offers a forum for political coalitions to form not just between MEPs but also institutions. According to Keller MEP, “a lot of Commissioners, they also seek help from the European Parliament, like to fight together against the Council for instance that happens sometimes” (Keller 2010). Thus where institutions can agree it serves to form a united front, and doing this publicly in the open chamber of the Parliament can serve Member State interests where agreement can be reached. It also explains why supranationalism has gathered pace in European Union decision-making as actors must justify their actions in the most public of forums where self interest is discouraged and Member States are pressured into making decisions based on the consideration of others. Member States who are portrayed by liberal intergovernmentalists as motivated by economic gain rather than cultural aspects of democratic standards lack a full account of why democratic monitoring and reform has become such an important consideration in enlargement policy.

The focus of integration capacity has shifted away from institutional reform now that the Lisbon Treaty has been introduced. Attention has been focussed instead towards aspects of informing and communicating with the public about enlargement. The European Parliament includes such a factor in its response to the Commission's 2007 enlargement strategy paper. According to the text adopted integration capacity includes, “a comprehensive communication strategy should be in place to inform public opinion about the implications of enlargement” (European Parliament 2008, P6\_TA(2008)0363). Implementing such methods to communicate the benefits of enlargement has been made all the more complicated by the financial crises that struck not long after this conscious effort was made to engage with public opinion. However Gunnar Hökmark MEP, Vice-Chairman of the EPP and Chairman of the



EU-Croatia JPC has witnessed the positive influence firsthand; “The Croatian case is a success for the country [...] the EU that has shown itself capable of overcoming doubts in order to make sure EU enlargement remains a viable tool for democratisation” (Hökmark 2011). The European Parliament is not just forcing its way into enlargement policy it has support from the Commission itself; “Parliamentary exchanges can also play an important role in fostering informed debate and mutual understanding of the enlargement process.” (European Commission 2011, p.22). By this admission from the Commission, MEPs are making the enlargement process more democratic. By acting as a transparent forum for the expression of ideas and exchange of information, parliamentarians are able to inform their electorate about the issues. However for Othmar Karras MEP, “we have to say we have failed to communicate to citizens in a proper way the benefits of the EU and this parliament.” (Karras 2012). This argument is developed by comments from Alain Servantie Senior Advisor within the European Commission’s enlargement Directorate. According to Servantie, “Parliament wants to play a bigger role now, especially since the Lisbon Treaty” (Servantie 2011), and in turn this could stimulate greater interest around the issues. However the current problem is an overall lack of interest or as Moravcsik (2002) has argued the salience of European Union competences’ is not a main priority for voters. Citizens have the right to not be interested for whatever reason but this should not excuse the European Union from informing its’ citizens.

### **Interinstitutional Relations**

As previously mentioned the European Parliament was unsuccessful in gaining the power to give consent over the opening up of negotiations with candidate countries. However Moravcsik reminds us, “the most fundamental source of the EU’s legitimacy lies in the democratic accountability of national governments” (2002, p.619). It seems this view point is not shared with the European Parliament as it pushed for further powers over the negotiating stage. Its request for further empowerment suggests for the Parliament at least, the institutional set-up was not enough to satisfy its aspirations as a democratic influence on enlargement decision-making. Therefore it is necessary to examine how the European Parliament has attempted to develop its relationships with those institutions already heavily involved in enlargement policy. This is a different strategy altogether from seeking

empowerment through Member States in any future treaty. For this it is useful to point to what the current treaty already stipulates, “The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature” (Lisbon Treaty point 240). This gives agreements like the ‘Framework Agreement on relations between the European Parliament and the Commission’ a legally binding basis. Since 1990 this document has been updated every five years and outlines a number of arrangements including rules introducing the participation of the European Parliament, prior to its power of consent, regarding enlargement policy. Since the introduction of the Lisbon Treaty it has now become a legally binding document enforceable by the European Court of Justice.

This Framework Agreement has caused conflict with the Council as it serves to alter the institutional design without the need for Member State approval. One area of contention specifically regards the agreement, “The Commission shall keep Parliament fully informed of the progress of accession negotiations and in particular on major aspects and developments, so as to enable it to express its views in good time through the appropriate parliamentary procedures.” (European Parliament 2012b). This grants the European Parliament a significant inclusion in the realm of enlargement negotiations even if it is not involved directly in the conduct of negotiations themselves. The resulting opinion of the Council’s Legal Services was that these changes were unsatisfactory placing the Commission in a position to take, “account of the Parliament's comments in the entire process of negotiation and to provide it with a whole series of documents” (2010, p.12). The European Parliament has found a further means of being indirectly included in the enlargement process, coming at the expense of Council approval. Its powers have also been argued to go beyond an interpretation of the treaties, a point made clear by Vigenin MEP, “I think in this process we are even more important than we are suppose to be according to the treaty” (Vigenin 2011). However it is critical to include an account of how this process translates in practice. As Alain Servantie surprisingly points out on the Commission’s agreement to consult Parliament over the enlargement programme containing information on the Instrument for Pre-Accession Assistance, “we don’t go much into detail because they don’t have time” (Servantie 2011). Understandably MEPs are not able to scrutinise everything and must choose where to focus efforts. Enlargement is a process covering thousands of documents and years of work, though

it seems there might be more at here than a mere limitation of resources. Indrek Tarand expressing his views two days before a Council meeting explains, “We are still discussing what is our recommendation to the Council [...] they won’t even reach Council when we vote on them tomorrow and they are already on their airplanes to their meetings, I mean how can we influence?” (Tarand 2011). It adds little to the democratic functioning of the European Union when MEPs are unable to spend adequate time on policy areas and have difficulties in forwarding their own opinions in time for them to be of any influence. It further has implications on the ability of the European Parliament to hold the Council accountable for their actions given MEPs missed their opportunity to influence any decisions being made. This is a real concern considering the political fallout which has transpired over the Framework Agreement where the European Parliament has fought for many years to secure greater participation and access to documents only to see a missed opportunity.

This political fallout was certainly serious enough in that the Council chose not to attend the Parliamentary debate on concluding the Framework Agreement. In the Council’s official response to the concluding of the Framework Agreement, “The Council, which was not party to the negotiating of the Framework Agreement, points out that compliance with the founding Treaties of the Union, [...] is the fundamental principle governing the existence and the functioning of the Union” (Council (2010/C 287/01)). These comments may set out the legal basis for which the Framework Agreement must comply though it does not offer an explanation regarding its absence from a debate that it was otherwise able to attend. In order to understand the Council’s behaviour here the words of Vigenin MEP offer some clarity by showing the sensitivity over enlargement policy; “if you do something which is contrary to the expectations and wishes of the Member States, if they do not support this policy then finally you cannot achieve much” (Vigenin 2011). Even though the Framework Agreement does not apply to the Council, how the European Parliament and Commission interact has implications for all three of these institutions. Therefore the lack of attendance at the Parliamentary debate had consequences for the Framework Agreement itself as explained by Commissioner Maroš Šefcovic, “As the Council had chosen not to be part of the negotiations on the revised framework agreement, we have taken care not to pre-empt on issues that need to be agreed with the Council” (Šefcovic 2010). Such is the importance of the need for cooperation between the institutions it served to hinder conclusions of the framework

agreement without the presence of the Council, a fact the Council would surely be well aware of in making its decision not to attend.

This conflict created a heated response from MEPs as Hannes Swoboda stated; “the Council sometimes behaves like a child who has had a toy taken away and is now upset and affronted” (Swoboda 2010). Others like MEP Zuzana Roithová argued, “The Council, which feels aggrieved, must get used to the fact that in future, it must cooperate much better with the European Parliament” (Roithová 2010). This debate does highlight some important aspects of the institutional set-up within the European Union. It appears MEPs are more able and/or willing to express their opinions when criticising the Council. However it is worth pointing out that if the Council were to express allegations against the childish behaviour of MEPs there may be more of an outrage. For this instance however, it is somewhat of a reversal on institutional roles as in the past it has been the Parliament viewed as the institution with limited inclusion. Sociological institutionalism supports the concept here that the European Parliament is pushing forward its independent agenda. However in terms of influencing the Council it is not doing so favourably. The change in behaviour being witnessed is a negative outcome. Even liberal intergovernmentalism fails to fully account here the actions of the council as Member States are not being seen as winners or losers, instead the Council is adopting an approach of absence that only acts to make unfavourable decisions more difficult.

While the Council was under no obligation to attend the debate these institutions have spent a great deal of time attempting to promote the need for deliberate and consensus decision-making, something this Framework Agreement attempts to promote in improving transparency between the behaviour of the Parliament and Commission. Interestingly this issue was raised by the European Scrutiny Committee in the United Kingdom who asked the Minister for Europe, “to explain why the Council did not insist on participating in the negotiations” (2010) rather than exclude itself from the debate. In an interesting response David Lidington Minister for Europe (2010) appears to give no clear answer in regards to why the Council did not attend. Instead a reminder is put forward that if any infringement of the Treaties was to occur the government would bring a legal challenge to the European Court of Justice. The behaviour of the Council may not have been the decision of the UK’s

Minister of Europe but it shows there is no legitimate reason for Council absence other than to be seen to be absent. However it should be noted here even though institutional conflict has occurred this does not have to mean overall relations between the Council and European Parliament have suffered as a result. Instead it should be viewed in terms of disagreements over specific policy where agreements continue in other areas. Only the very next week, after the Council's controversial decision to ignore the debate, landmark negotiations began on the 2011 budget under the Lisbon Treaty where both institutions are now on an equal footing. This problem also appears to work both ways as Anna Tiido part of the Permanent Representation of Estonia to the EU for enlargement issues states, "I am regularly following the issues in EP, and trying to give information to Estonian MEPs on AFET, but interaction could certainly be more active." (Tiido 2011). Further progress on the communication between the European Parliament and the Council should therefore be a goal for the future as current methods for interaction are far too easily disrupted or ignored as the evidence here shows.

It is evident from the Framework Agreement that the European Parliament now has more opportunity to scrutinise the work of the Commission, to such an extent that if the Commission goes against one of Parliament's recommendations on accession negotiations it can be obliged to explain its decision. In this regard the European Parliament's democratic ability to scrutinise the Commission now impacts upon if and when the Member States decide to conclude negotiations as the importance of the Commission's role in enlargement policy is significant. As Servantie explains, "there is only one case in history where the Member States did not follow the opinion of the Commission" (Servantie 2011). For the European Parliament its aim is to be, "fully informed in order to serve the purpose of facilitating Parliament's consent, to give more predictability to the procedure and to avoid non-conclusion of international agreements when the negotiation has already been completed" (European Parliament 2010, A7-0279/2010). In this sense if parliamentary consent serves to add to the democratic character of accession then influencing how accession negotiations are conducted is a logical consideration for the European Parliament. In order to be in a position where it can give consent MEPs require information beyond the text they are voting on. This is the democratic argument put forward by the European Parliament however there are also other influences that should be considered.

In attempting to understand why such concessions were granted by the Commission, given the Council's obvious lack of consent it might be useful to understand the timing of the revisions. As Bill Cash MEP explains, “Jose Manuel Barroso has agreed to grant more powers to the European Parliament, under the new framework agreement, in exchange of having the new Commission confirmed by the MEPs” (Cash 2010). Therefore it seems the importance of Parliamentary involvement in appointing the Commission College may have repercussions for Parliamentary involvement in enlargement policy. This behaviour suggests the European Parliament is using its institutional positioning to further its political aspirations and where challenged by Member State authority it can overcome this resistance as shown by the signing of the Framework Agreement. This leaves an interesting development where liberal intergovernmentalism can account for the central position of the Member States, while through the strength of weak interinstitutional consultations the European Parliament is able to communicate and influence the decision-making of enlargement policy. Overall the Council seems hesitant to accept this transition towards the supranationalism of interinstitutional relations where its input is no longer the determining factor in how the Commission behaves.

### **Delegations and Joint Parliamentary Committees**

Over the years there has become a growing development of the European Parliament's use of interparliamentary delegations. This is a prime example of how the European Parliament is able to extract its own information over enlargement policy and bring this to the interinstitutional table. Their exact number and size are decided upon by the Conference of Presidents, a group comprising the President of Parliament and the political group chairmen. In understanding Parliament's allocation of delegations it stresses how it is, “anxious to strengthen parliamentary democracy by pursuing a continuous interparliamentary dialogue” (European Parliament 2009a), not to mention the European Union also establishes delegations of its own, raising concerns over the possible dual nature of delegations. However Ioannis Kasoulides MEP and EPP Group Vice-Chairman responsible for the Foreign Affairs argue, “Over the past years the role of interparliamentary delegations has become increasingly important, effectively becoming a form of parliamentary diplomacy”

(Kasoulides). Allocating delegations has also caused conflict with the European Council as Member States have divergent views on a number of the countries in question. This can be seen through the decision by the European Parliament to include Kosovo within its list of delegations, even though, Cyprus, Greece, Romania, Slovakia and Spain had not recognised Kosovo as an independent state. This novel mode of conducting foreign policy for the European Parliament allows this institution to develop competencies in an area largely dominated by Member States.

However some disputes also spill over into the JPCs like the dispute between Turkey and Cyprus. Turkey first launched its bid for membership in 1987 and represents the most controversial country being considered for membership. After examining the meetings of the EU-Turkey JPC the conflict over Cyprus is a recurring theme, made all the more complicated by Cyprus holding the Council Presidency for the first time in 2012. Antigoni Papadopoulou, a Cypriot MEP, “inquired as to how Mr Füle evaluates Mr Gül commenting on Cyprus as a half country and the EU being in a "miserable" situation” (EU-Turkey JPC 2011, p.9). This example showcases an MEP questioning Commissioner for Enlargement Štefan Füle, present at the JPC meeting, on the words expressed by Turkey's President Abdullah Gul. Debating these issues might be politically sensitive but the European Parliament shows through this JPC's work it will not shy away from controversial discussions. For this reason alone the Council and Commission are influenced into following the work of JPCs. The Council may be privileged in its position of awarding candidate status but it is not protected from the reality that MEPs have given themselves every opportunity to address the most sensitive of enlargement issues. Such is the significance of the Turkish accession; France under Jacques Chirac introduced a procedure for a referendum to be held where a candidate country represented more than 5 per cent of the European Union's population. This was later removed under Nicolas Sarkozy but remains a sticking point for many Member States. Of course there are numerous reasons hindering Turkish accession. One main difference between the relatively simpler accession of Iceland compared to Turkey pointed out by Alain Servantie (2011) concerns the importance of Turkey's neighbours. Whereas Iceland is an island, Turkey would open the European Union's borders into a region undergoing major political unrest and possibly expand the European Neighbourhood Policy to boundaries it is not currently designed to cope with. As mentioned, Turkish accession is a sensitive issue but nonetheless the European Parliament is at the forefront, seeking answers to the biggest of

enlargement questions. It allows MEPs to bring transparency towards issues Member States have attempted to control under their own terms as European Union delegations are not established around the needs of the European Parliament.

It is through these interactions that the European Parliament is able to move beyond merely pressuring other institutions, towards directly representing its own views. In setting up JPCs with candidate countries the European Parliament has thus involved itself with some of the very actors within candidate countries responsible for shaping negotiations. It also allows the European Parliament to further specialise and delegate responsibilities to Parliamentarians with an expertise or interest in the candidate country in question. However the impact of these delegations lacks the attention portrayed on some of the European Parliament's other competencies. According to Herranz, "The role of these delegations has deserved scant attention from scholars dealing with European foreign policy, and the regular media rarely covers their activities" (2005, p.2). Candidate countries seem quite willing to establish JPCs with the European Parliament. This does raise the argument that there might be some use to their formation or perhaps candidate countries merely seek to appease the European Parliament. However some headlines about delegations move the debate away from their use as the Telegraph seeks to highlight in, "European Parliament's 10 most expensive delegations in 2010" (Telegraph 2012). While it is important to ensure Parliamentary funds are held accountable this does little to highlight how effective such meetings are. The benefit of having independent relations with candidate countries means that when other European Union institutions become involved, the European Parliament is able to influence the conditions of interaction much more effectively. In addressing the EU-Romania JPC Olli Rehn welcomed, "the active part played by this Joint Parliamentary Committee and the European Parliament" (Rehn 2005). Therefore the participation of the European Parliament here fosters the cooperation of the institutions. Even if negotiations stumble or fail between the EU and a candidate country, the JPC can remain stable as it does not rely on Member State approval. For these reasons it appears useful to examine the ability of the European Parliament to participate and influence enlargement policy through such delegations. This will be accomplished by conducting a case study on the Joint Parliamentary Committee with Iceland.



## Case Study: EU-Icelandic JPC

Iceland forwarded its application to join the European Union to the Council on 17th July 2009. As according to the treaties the Commission's opinion was then sought regarding this application. It was the opinion of the Commission that, "negotiations for accession to the European Union should be opened with Iceland" (Commission 2010). With a strong history of democratic governance and one of the oldest Parliaments in the world Iceland certainly qualifies for consideration as a candidate country. Relations with Iceland had already been active for many years and channels of communication had been on-going at various levels. In response to the application bid the European Union moved the headquarters for its delegation from Oslo to Reykjavik. This may not have changed the ultimate goal of the delegation but as one senior official describes, "the fact that we now have a Delegation in Reykjavik that can work more directly with people here has been a great improvement of the work in many ways" (Bendixen 2011). The European Union was therefore building on an existing relationship controlled through the European External Action Service. Developing relations with countries not just within its borders but around the world has been part of an on-going process for the European Union. Member States benefit from the fact they can negotiate agreements with the weight of access to common market behind them.

The European Parliament has made a similar move in that it has replaced the EU-Iceland interparliamentary delegation with a Joint Parliamentary Committee. Such JPCs usually occur when a country has been awarded candidate status. It is a means for the European Parliament to develop a closer working relationship with parliamentarians in Iceland. This is not to take away what progress has been made through the use of the EU-Iceland interparliamentary delegation. In fact in the 19th meeting (2008) the issue of possible membership was discussed and the opinion of Icelandic political parties was made clear to MEPs. Now though with the JPC meetings take place more regularly on what appears to be a more disciplined time scale, departments are able to cooperate more closely with these meetings, allowing for an improvement in the gathering of information for the European Parliament. This avenue for participation is often overlooked in academic work perhaps due to the fact there is no formal powers being executed in the enlargement process here. In its most critical view it has been likened to 'political tourism' (Herranz 2005, p.3). In order to

judge more effectively the contribution of this JPC several actors participating and in close cooperation with the committee have been approached. Though the JPC is officially conducted between parliamentarians it also acts as a forum for related actors to interact and communicate. What will be critical in this examination is to discover whether or not the MEPs are able to use this process as a means to influence the enlargement process. Its ability to draw the attention of the established actors within the enlargement process and their views will give an indication as to how capable the European Parliament can be through JPCs. It should not be judged against whether Iceland actually gains membership as the European Union must respect the final wishes of the candidate country.

### **Importance of the JPC**

It was following twenty EU-Iceland parliamentary delegations that relations between parliamentarians had built up over the years. With the JPC in place the first meeting held in Iceland set a precedent in establishing how important this relationship should be between parliaments. According to the first meeting recommendations this relationship, “is an integral part of an accession process, providing a forum for parliamentary scrutiny and oversight and a formal dialogue with the candidate country government and the European institutions” (EU – Iceland JPC 2010). From the outset the JPC have set this opportunity for dialogue in high regards and with this a commitment its impacts should go beyond that of pleasantries exchanges between parliamentarians. Judging from the involvement of actors meeting with MEPs there are clear attempts to exchange opinions beyond the remit of parliamentarians alone. For the Foreign Minister of Iceland, “there is no doubt in my mind that visits of representatives of different party groups within the EP to Iceland has also served to deepen mutual understanding” (Skarphedinsson 2011). This interaction with MEPs and Icelandic government ministers brings an important element of communication that otherwise in everyday European Parliamentary decision-making would not be available.

It is true prominent actors like Foreign Ministers are able to address MEPs at committee meetings or in plenary, however travelling to the candidate country takes this interaction to a more personal level. There have been many occasions where prominent foreign actors have

addressed the European Parliament. However at times this can be for political reasons such as when Joe Biden Vice President of the United States addressed plenary in a hope to influence MEPs opinion over policy. JPCs allow for honest interaction on topics important to parliamentarians. In the past MEPs had to rely more heavily on information from other institutions. However as Skarphedinsson goes on to express, “From me they are able to get a view into the thinking of the government, straight from the horse’s mouth, and for me it is very valuable to see how they look on us, both as a country and an aspiring member” (Skarphedinsson 2011). This two-way interaction is therefore mutually beneficial as governmental ministers like Skarphedinsson express a proactive approach in communications. MEPs benefit first hand in being able to question the most prominent of decision-makers within the candidate countries government. While the Commission has to work within guidelines set by the Council, MEPs can be more flexible and pay attention to issues as they develop, even if this is as simple as asking questions on how a candidate country intends to operate once granted accession, thus creating a record for accountability in the future. This strengthens democracy in a way no other institutions has been able to do so far as this JPC goes beyond a relationship between parliamentarians to include government ministers and Commissioners.

Along with the application for EU membership Iceland also established a Negotiation Committee which has direct interaction with both the EU delegation and JPC. These bodies appear to be in close cooperation with each other and it is important to distinguish what additional benefits if any the JPC can bring to proceedings beyond that of the EU delegation alone. As Chief Negotiator of the Icelandic Negotiation Committee expresses, “Our ties with the European Council and Commission are strong. We have also emphasised on strengthening ties with the European Parliament since Iceland applied for membership” (Jóhannesson 2011). Iceland's strong ties with the European Council and Commission can be traced back to the fact Iceland has been in the European Economic Area (EEA) since 1994. However this did not require close ties with the European Parliament and it is only recently that some parliamentarians have become actively involved in a deeper understanding in the working of this institution. Important because any new Member State is required to send their own MEPs irrespective of when European wide parliamentary elections take place. As one Icelandic parliamentarian expressed when asked about their view on improving the relationships between the parliaments a; “Crash course in learning about the functions of the

EU parliament would be useful” (Jónsdóttir 2011). It appears there is certainly a desire by parliamentarians in Iceland for greater awareness of how the European Parliament functions, which suggests the JPC is there for reasons other than a symbolic gesture. This level of information has obviously been missing to national parliamentarians in cooperation with the Council alone. Understanding the relationship of the interinstitutional framework benefits a candidate country in pursuing their goals and opens up the accession process beyond interaction from intergovernmental actors. It should therefore not be taken for granted that both the Icelandic Parliament and European Parliament are able to cooperate on a level that they already do with other institutions. But as Jónsdóttir further explains, “I have seen some great work being done in the EU parliament and I am happy to see how it is being strengthened at the same time I feel it is important to develop much faster tools online for the general public to be more aware of how they can participate” (Jónsdóttir 2011). Clearly this JPCs interaction is educating parliamentarians and in doing so they are much better equipped to interact with each other's decision-making process and communicate opinions. Such as methods for increasing public participation mentioned by Jónsdóttir, as this is one area the European Parliament has been keen to improve in order to raise support which can only be more successful with the help of national parliamentarians. Interaction between parliaments provides a basis beyond communicating enlargement issues but serves to adjust the behaviour of both institutions in preparing for possible integration.

MEPs have proven proactive in their attempts to find out information regarding enlargement policy. As MEP Indrek Tarand and member of the EU-Iceland JPC points out there are many ways to gather information, such as asking for a briefing from the Commission, contacting the Icelandic embassy or asking the Council a direct question, “so basically you can stick your nose into a process” (Tarand 2011). It seems that through the channels of communication open to the European Parliament it has had a positive influence on the ongoing process as shown by Iceland's Foreign Minister remarking, “I have found the MEPs well-informed of Iceland's interests and special circumstances, and generally supportive of Iceland's accession” (Skarphedinsson 2011). This system of communication and information gathering is vitally important as with any elected office, terms will end and new candidates will become elected a point that Tarand and others like Brzobohata make clear in that they are both newly elected European Parliamentarians and members of the JPC (Tarand 2011, Brzobohatá 2011). Therefore the framework of the JPC puts in place a system where newly

elected members can continue with the on-going work and progress is not lost as old members leave. This formal creation of JPC therefore ensures a greater opportunity to influence is granted to the likes of Tarand and Brzobohata, rather than relying on informal relationships between the institutions. Negotiations can be picked up where they left off as a formal account of positions are now in public record whereas in council meetings these are not always widely available. Thus this supranational approach to enlargement policy strengthens democracy through the accountability of actors.

### **Cultural Influence**

While Skarphedinsson may positively comment on the work of the European Parliament the importance of the Member States cannot be overlooked. According to Skarphedinsson, “For me as the Minister responsible for the negotiations it is impossible to overlook the importance of developing good personal relationship with the other Ministers of Foreign Affairs, not least from the big fishing powers, and key Commissioners” (Skarphedinsson 2011). This emphasis on the importance of specific relationships is something that institutions like the Council and Commission are not as flexible in developing as the European Parliament. With the Council’s rotating presidency and the Commission restrictions in appointing portfolios there is set points of contact, even if Skarphedinsson may prefer to discuss matters with actors from a similar regional background. However the European Parliament is able to appoint MEP from specific backgrounds, experience and expertise to committees much more flexibly to meet the needs of candidate countries. Just how important an issue this is can also be seen from Iceland's Chief Negotiator when pointing out the European Union can benefit from Iceland's long tradition of democracy, “Common Nordic values on these issues will also be strengthened by Iceland's membership of the European Union” (Jóhannesson 2011). Again this benefit does not have to come from an accession of Iceland as the JPC itself serves to strengthen the European Parliament by opportunities to learn from other fully functioning democracies.

In this sense the importance of regional cooperation and understanding has a significance underlined both by Skarphedinsson and Jóhannesson. It also seems to be an issue Icelandic

parliamentarians in the JPC are fully aware of as Bjarnadóttir explains, “The democratic culture is very different within the various EU Member States. The democratic culture in Iceland is comparable to that of the EU northern Member States” (Bjarnadóttir 2011). This is where more attention could be paid from within the European Parliament as only two of the nine MEPs assigned to the JPC and none of the substitute members are from the Nordic region. While some might argue this is not a major drawback as MEPs are professionals in their duties it still remains an issue for Icelandic parliamentarians like Bjarnadóttir who feel the need to mention the cultural differences. It is up to each institution to decide how they represent themselves and the emphasis for the European Parliament has always been centred on ideological politics. In this instance it would be useful to take further into account the differences of cultural and nationality or make greater efforts to ensure such differences are not apparent to candidate countries.

In order to be an effective influence on the enlargement process JPCs have to create an environment where problems can be discussed and solutions can be sought. In questioning MEP Brzobohata about this she explains there is a good working relationship and meetings are very friendly (Brzobohata 2011). However this should also be viewed against the opinion of Jónsdóttir who argues, “So far the work with that committee has been more symbolic” (Jónsdóttir 2011). Such accusations may hamper the efforts of the JPC although it is a view that not shared among other members. For Bjarnadóttir the meetings are more than a symbolic gesture even though the Committee may shy away from confrontational issues, “the different views and emphasis become known to all parties and an exchange of views is always the first step towards an agreement” (Bjarnadóttir 2011). In fact the very issues that appear to be most controversial concerning Iceland's application which surround fisheries was discussed at length by Mr Ódor representing the Council at the JPCs second meeting (EU-Iceland JPC 2011). Expecting a solution to be found to this problem may be beyond the scope of the JPC alone. As MEP Paul Rübzig points out such issues include the international fishing community and for Iceland this does not have to mean a loss of power, “if Iceland is a member of European level, your ministers, your members of parliament will be active partners in the policy-making” (Rübzig 2011). This seems to be exactly what is happening given that both the Council and Commission were represented at the JPC in 2012 as talks continued on fisheries with Iceland's Minister of Fisheries and Agriculture (EU – Iceland JPC 2012).

## Conclusion

What this chapter and case study has shown is the progression the European Parliament has made in the formation of enlargement policy. From the very criteria which the European Union basis its membership standards MEPs have shaped their meaning and provide clarity to all those wishing to join. This is not the large scale development of preference formation on Member States that liberal intergovernmentalism predicts must happen for state-centrism to dissipate. Instead it is a change of behaviour attributed towards more modest aspects of enlargement policy where intergovernmental actors are now restricted in their actions because of European Parliamentary influence. This is also shown by the fact that Member States must justify their actions in front of MEPs where arguments of self-interest are outweighed against the values of the European Union as a whole. As a result sociological institutionalism offers insight towards this change in cultural behaviour surrounding enlargement policy as it now favours the supranational consideration of absorption capacity and democratisation in candidate countries. European Parliamentary participation has not come without its drawbacks as this chapter has highlighted. MEPs have limits placed on their resources and consensus building can be time consuming as shown with forwarding opinions to European Council meetings. Member States have also disputed the transition towards supranational interinstitutional relations that excludes Council involvement. Therefore the cost of MEPs promoting democratic behaviour on the European Union has at time come at the price of institutional conflict as Member States are not always accepting of European Parliamentary influence.

Weaknesses were also exposed in the working of the JPC where Jónsdóttir considered its work symbolic and ultimately Member States still control the final say in when the European Parliament would be asked for consent. In this respect there has been no progression away from intergovernmentalism but neither does there have in order to enable democratic improvements in this process. For example, the case study highlighted the success the European Parliament has had in stimulating debates across actors and institutions on solving delicate matters for Iceland. As pointed out, the first step in solving a problem is discussing it and here the European Parliament offers a clear forum for transparent debate where actors, such as Commissioners and national ministers, can be held accountable for their policy

decisions in front of parliamentarians. The behaviour of intergovernmental actors in the Council is being altered around the needs of the JPC in not only attending but doing so on the terms stipulated by MEPs. It also enables parties on both sides to learn from one another as, Icelandic MPs have expressed an interest in learning more about the European Union and ministers have expressed a desire to work more closely with actors from similar regional backgrounds. This enhanced of democratic behaviour has opened the process up to national and supranational delegations where advancements made can be channelled through to Commission and Council negotiations. Thus the European Parliament has provided a further democratic dimension to the enlargement process where integration is strengthened under the very criteria it helped define and is now implementing.



## **Chapter 6: Legislative Decision-making**

### **Introduction**

It was not until the introduction of the Lisbon Treaty where the OLP provided the European Union with a legislative framework dependent on the effective participation of the European Parliament. It is essential therefore that MEPs are able to operate within the European Parliament and cooperate with the Commission and Council in order to ensure the legislation adopted is democratically constructed. Following a brief discussion on the legislative interinstitutional relationship, this chapter will examine how the European Parliament not only participates but seeks to actively influence the behaviour of the Council and Commission under the OLP. This will mean looking closely at the internal framework of the European Parliament in a system which MEPs have largely been able to shape over the years. Empowerment alone is not sufficient; a significant contribution in being influential rests in the hands of MEPs and the processes involved in their efforts to legislate. In many instances the institutions are able to cooperate in adopting legislation, there exists an environment where conflict has become a normal process in negotiating an acceptable outcome. Because of this one of the most prominent and recent disputes over the Schengen legislative package will serve as a case study towards determining how the European Parliament deals with legislative cooperation and conflict. This will include several opinions from those involved in creating and attempting to resolve this conflict, such as the European Parliament's rapporteur on the issue and representatives from the Council present as decisions were made. In order to establish how successful the European Parliament is at influencing the actions of the Commission and Council these views will be critical and express how future disputes are likely to be resolved.

### **Literature review**

Before this chapter can discuss the outlined objectives it will be necessary to include a literature review of the material already available on the processes involved in legislative

decision-making. The most widely discussed issue in recent years of European Parliamentary politics concerns the Ordinary Legislative Procedure, more commonly known within previous literature as codecision. Introducing the codecision procedure and its expansion meant institutions had to adapt with the change in legislative politics. According to Maurer, “Given the time constraints imposed on the Parliament by the procedure and the concentration of its scope of application, Parliament had to adapt itself in several ways” (2003, p.236). Though it is worth mentioning the legislative changes introduced have affected the Council in a similar fashion. Even with this argument put forward, Farrell and Héritier (2003, p.582) suggest the European Parliament is in somewhat of an advantageous position in relation to the Council. For example, “The rotation of the chair of the Council of Ministers every six months may mean that Council chairs have shorter time horizons than other legislative actors such as the Commission or the EP” (Farrell and Héritier 2003, p. 582). This empowerment may have come at a price though as limited resources defines the ability of the European Parliament to accomplish all its goals in regards to a reduction in non-legislative resolutions and own initiative reports (Maurer 2003, p.237). In fact Maurer makes an important argument in relation to this decline; “Initiative reports and resolutions reflect MEP awareness and interest in raising an issue with the public and with the Council and the Commission” (Maurer 2003, p.238). This democratic linkage challenges MEPs abilities to pursue less supported issues or champion causes altering the behaviour of the European Parliament. What can be said from these scholars’ work is that Parliamentary empowerment has introduced substantial changes for the functioning of the institutions. Hage for example shows evidence; “Stronger powers of the EP are associated with more involvement of ministers in Council decision-making” (Hage 2011, p.40). It also appears these changes have brought a need for the Commission, Council and Parliament to recognise they are interlinked more so than ever before.

Understanding the complexity of this interinstitutional relationship in legislative politics has served to produce a wide number of opinions. For Selck and Steunenberg, “The role of the European Parliament in the Union’s legislative process has been perceived rather differently in the literature on the EU, ranging from a political forum with limited power to a genuine co-legislator” (2004, p.40). It does not help matters that treaty changes tend to introduce significant changes to the decision-making process. Such was the case with the Amsterdam Treaty that according to Tsebelis and Garrett brought the European Parliament and Council

on equal legislative terms under codecision while relegating the Commission, “to a more traditional bureaucratic role in policy making” (Tsebelis and Garrett 2000, p.32). Interinstitutional agreements can also have implications on the political balance of power as well as informal arrangements. According to Stacey, “in its voracious appetite for informal accords, the Parliament has targeted not only the Council, but also the Commission, the latter has not been particularly well placed to fend off the former’s influence attempts” (Stacey 2003, p.949). However as Thomson and Hosli (2006) suggest it is the Council that has the dominant position in establishing its interests in decision-making. Therefore explaining the empowerment of the European Parliament is not enough to understand the decision-making process as institutions have the ability to adapt surprisingly well to change.

There is widespread agreement that the European Parliament has strengthened its position against other institutions and in some cases is now on an equal footing with the Council. Differences do emerge in who exactly has the upper hand and under what scenarios. According to Thomson and Hosli, “legalistic analyses of the co-decision procedure may attribute equal power to the Parliament and the Council. However, the results presented here indicate that the Parliament’s power is much lower in practice” (2006, p.415). The matter of technical policy expertise is used to justify this argument in that the European Parliament suffers a disadvantage against the Member States represented with large domestic bureaucracies. Though not all scholars agree with such a depiction, Farrell and Héritier (2003) propose it should be the European Parliament positioned with the upper hand, especially given the European Parliament's protection from damage to failure in parliamentary elections considering they are a second order contest. Furthermore The Committee of Permanent Representatives (COREPER), representing the Council in aspects of negotiations headed by the chairmen, “has to deal with a wide range of codecision issues with relatively limited specialized staff” (Farrell and Héritier 2003, p.583). Therefore this argument leads to the consequence of pressure on the Council to avoid lengthy negotiations. This would account for a rise in agreements reached under the OLP in the first reading stage.

A great deal of literature has dealt with empirical data in searching for a conclusion on several legislative issues. The number of Commission proposals adopted have been analysed in order to examine voting efficiency and European Parliamentary impacts on decision-

making speed (Golub 1999). Attention has been drawn towards the interpretation of European Parliamentary roll-call votes as Attina (1990) investigates party cohesion using a sample cast in the first and second parliamentary term. Noury (2002) using the roll-call data collected from the third and fourth parliamentary terms investigates MEPs voting patterns to find out how important ideological influences are on their nationality. The implications of MEPs voting patterns have been examined in order to determine its effect on national parties using roll-call votes (Whitaker 2005). However the most comprehensive examination using roll-call votes was undertaken in order to determine the cohesion of political parties in the European Parliament, “To understand voting in the European Parliament we have collected and analysed every roll-call vote since the first direct elections: from the start of July 1979 to the end of December 2001” (Hix, Noury and Roland 2005, p.210). Of course these scholars are well aware of the limitations on roll-call voting data given that the vast majority of parliamentary votes are by a show of hands unless requested or stipulated otherwise. There are real concerns about the legitimacy of interpreting such data given the limited nature of its use, an argument which McElroy (2006) explains in further detail. Carrubba *et al.* expresses such concerns, producing evidence for the strategic use of roll-call votes casting, “serious doubt on existing findings in the EP voting behaviour literature” (2006, p.702). It is not surprising therefore that seasoned experts on the European Parliament claim, “the impact of the Parliament is not just a question of completed procedures. Both in quantitative and in qualitative terms, there is strong evidence that the Parliament has made a significant difference to the shape of Community legislation” (Shackleton 2000, p.327). It is with this that the use of roll-call voting has been shown to have its limitations and should be treated as part of a wider strategy to understand aspects of the European Parliament rather than the answer itself.

Once a proposal has been drafted by the Commission it is now sent to the Council and European Parliament at the same time under the OLP, as well as national Parliaments. Just how the European Parliament deals with the legislative proposals it receives has attracted growing attention in recent years. Rasmussen and Toshkov show that, “the EP spends more time reaching its first reading opinion in the co-decision and co-operation procedures than it does in the consultation procedure, where it has less power” (2011, p.92). This raises questions concerning how the European Parliament distributes its resources in order to best accomplish its goals and meet its commitments. Just how important the European

Parliament's participation in the legislative process is portrayed by Yordanova (2011) and therefore how important it is to understand parliamentary organisation in its efforts to adopt legislation. Interestingly some aspects in the handling of legislative proposals are not governed by the European Parliamentary Rules of Procedure which generally outline the vast majority of parliamentary practice and interaction with other institutions. According to Yordanova, "this procedural ambiguity could lead to violations of the prevalent proportionality norm in the EP and give disproportionate advantage to certain party groups" (2011, p.99). With the European Parliament advocating improved transparency it seems counterproductive to its cause if confusion or potential criticism exists in its own internal procedures.

In modelling the data concerning which MEPs become rapporteurs on codecision legislation Hoyland (2006) found a link between political party in the European Parliament and political party in the Council. According to Hoyland there would be, "more of an incentive for governing parties than for opposition parties to write reports. It is less costly for MEPs from parties represented in the Council to obtain reliable information about possible win-sets in Council" (2006, p.45). This could certainly be a factor in determining which MEPs are put forward to act as rapporteurs on legislative proposals. Though it is worth remembering there are likely many factors including individual ambition to consider in attention to potential Council support. Not to mention the legislative process might attempt to represent institutional equality, though not all legislative proposals are represented equally. Being seen to rapporteur prestigious proposals improves a MEPs standing and future career prospects within and beyond parliamentary office. For Yordanova this and parliamentary political group size plays an important consideration in rapporteurship leading to a, "bias in the allocation of co-decision reports in favour of members of EPP-ED and ALDE, whose support largely assures the simple parliamentary majority that is increasingly sufficient for adopting legislation" (2011, p.116). This directly challenges the view that national representation in the Council may best explain rapporteurship. Instead it might be wise to consider both national influences and ideological influences as both provide potential explanations on behaviour.

Common practice once a political party has successfully won the privilege to represent a legislative proposal, the party leaders must appoint a rapporteur. Previous literature on just which party members are appointed this position has produced some interesting perspectives. For Hausemer (2006) the issue of party cohesion is an important factor, given party leaders wish to ensure MEPs remain in their political group. Therefore parliamentarians from larger national parties may lose out and impact their ability to represent their constituents. Though Benedetto argues, “the nationalities and parties with a traditionally high commitment to the EP have assiduously targeted the assignment of reports” (2005, p.85). This like other issues surrounding the European Parliament in legislative politics seems to produce conflicting opinions. The variety of opinion can at times help stimulate debate and further research with many scholars remaining open minded about the possibility of other explanations. Though McElroy puts his point across quite clear on this matter, “In short, there is simply no evidence to suggest that there is any systematic bias in committee assignments in the EP” (2006, p.25). As parliamentary committees have further developed as a means to work alongside Commissioner's portfolios and scrutinise legislation, so too has interest from scholars. The importance of such matters is best summed up by Hausemer; “Yet the solution to the so-called democratic deficit does not lie solely in the institutional set-up of the European Union or the social make-up of its Parliament. Rather, it is the legislative participation of individual MEPs that determines whose opinions are represented” (2006, p.506). The ability of the European Parliament to provide democratic legitimacy is therefore not a static issue and must be seen as part of the solution to a wider problem.

### **Ordinary Legislative Procedure**

Today the vast majority of legislation adopted by the European Union is produced using the OLP. There were obvious benefits for Member States in allowing further legislative empowerment for the European Parliament, “Parliamentary debates and resolutions in many of the other NPs equally reflected the awareness that increased pooling would exacerbate the legitimacy deficit” (Rittberger 2005, p.152). For a breakdown of the OLP it is worth drawing on the official website of the European Parliament:

The Commission sends its proposal to Parliament and the Council.

- They consider it, and discuss it on two successive occasions.

- After two readings, if they cannot agree, the proposal is brought before a Conciliation Committee made up of an equal number of representatives of the Council and Parliament.
- Representatives of the Commission also attend the meetings of the Conciliation Committee and contribute to the discussions.
- When the Committee has reached agreement, the text agreed upon is sent to Parliament and the Council for a third reading, so that they can finally adopt it as a legislative text.
- The final agreement of the two institutions is essential if the text is to be adopted as a law.
- Even if a joint text is agreed by the Conciliation Committee, Parliament can still reject the proposed law by a majority of the votes cast (European Parliament 2012c).

This is of course a simplified explanation on the procedure itself, though it does offer a useful insight into the exposition on what is expected of the institutions involved and behavioural aspects on how legislation should be adopted.

Because the European Parliament is the only directly elected institution within a much wider institutional framework, it is easy to associate a lack of popular support for the European Union with the European Parliament alone. The hope has been simplifying and improving the legislative process would improve on the level of public support. As pointed out by Timothy Kirkhope MEP, “Strangely, these new additional powers for the Parliament have not improved the standing of the European Institutions amongst the general public, who still see them as distant and inaccessible. This is a conundrum which no amount of citizen-friendly measures seem to remedy.” (2012a). Indeed the OLP “provides for more democratic accountability and has made the Parliament much more proactive in the rulemaking process” (Kirkhope 2012a). Based on these statements the European Parliament has been able to improve the democratic functioning of the legislative process under the OLP. It is important to distinguish that even without increased levels of public support the European Parliament is still able to improve the legislative decision-making process. Finding a solution to the public support challenge requires solutions the European Parliament is not able to achieve on its own. Ironically in an integration project seeking to make decisions and solve problems

collectively it is the European Parliament often stigmatised with the task of solving a European Union wide issue. What the European Parliament can do and will be judged on within this chapter is how it adds to the legitimacy of legislative decision-making by making sure it is a transparent, accountable and scrutinised process.

In order to do this it will be necessary to understand not just the OLP as outlined in the treaties, but how the European Parliament responds to the responsibilities and opportunities it has to influence. There are now a number of options for the European Parliament in participating in the OLP as informal methods of decision-making have gained substantial notoriety in recent years. As Manfred Weber MEP Vice-Chair of the EPP explains, “The degree of cooperation depends on the procedure chosen within codecision. For a few years now we are witnessing the emergence of a new form of cooperation: the fast track procedure.” (Weber 2012). This is a reference to informal trilogues (also known as *trialogues* in French) where meetings between the European Parliament, Commission and Council take place behind closed doors. Typically these meetings are attended by the “Parliament's rapporteur, shadow rapporteurs and support staff, staff from the Council Presidency and staff from the Commission. In total there may be some 20 to 40 people in attendance. (House of Lords 2009). Such small-scale meetings do allow for a more personal interaction between those few actors who have the potential to be the most influential on the proposal. It is not surprising that as a result agreements reached at the first stage of the OLP have increased significantly. This has advantages in speeding up the legislative process and difficult issues can be managed through direct interaction. After all the institutions are encouraged to cooperate and making use of informal methods of communication is a logical manoeuvre. However, “The early agreement procedure was intended for non-controversial issues, where there was little likelihood of substantial disagreement between EP and Council” (Laursen 2012, p.110). This raises real legitimacy concerns where this decision-making process encroaches on transparency and the opportunity for other actors to influence or even witness the decision-making process.

A resulting consequence of this must be to understand why trilogues have become so central to the OLP. It is the responsibility of each institution to decide on how they are represented within the trilogue meetings. As it is the Commission preparing initial documents under



discussion it is often negotiations between the European Parliament and Council that determine whether a compromise can be met on the contents of the text. Bearing in mind the Council must also be forthcoming in trilogue meetings it is not just the European Parliament that has made these meetings so regular. Therefore an understanding into the institutional functioning of the Council will be beneficial here. With a rotating six-month presidency and composed of national ministers from Member States each presidency attempts to set itself apart by setting individual goals often by stating landmark policies or popular projects it wishes to achieve. The resulting consequence has been found to define the behaviour of actors within the Council as a working group chaired by Dagmar Roth-Behrendt MEP argues, “The enormous pressure to conclude within the six months time-frame of the respective Presidency places too much focus on fast-track negotiations, at the expense of an open political debate within and between the Institutions, with the involvement of the public.” (2008, p.26). This sense of national competition between rotating presidencies has repercussions in how legislation has been adopted as a presidency faces pressure to conclude prestigious policies. Such an observation is further developed by the recognition of Csaba Sándor Tabajdi MEP, “The Council works off the text received from the EP and it is more difficult to create the appropriate majority in the Council to modify the text [...] creating a qualified majority in the Council is sometimes a daunting task.” (Tabajdi 2012). Therefore just as the argument has been put forward by liberal intergovernmentalism that Member States are able to avoid restrictions placed on them by domestic actors, Council presidencies are able to escape the restrictions placed on them by other Member States in forming a qualified majority. As a result, MEPs present at the trilogue meetings have a substantial amount of influence and from these arguments even more so than Member States not present at the trilogues. This places a great deal of authority in a select few supranational actors and heightens the importance to ensure the most effective actors are selected appropriately.

Even with greater access to documents from Council meetings, trilogue meetings are not subject to the same standards, as a result “publicly accessible deliberation in the Council on codecided legislation is usually limited to ministers formally approving the results agreed in private meetings only.” (House of Lords 2009). The European Parliament has however created more elaborate guidelines for the behaviour of MEPs in conducting negotiations and reporting outcomes. While the Council may be receiving criticism for its behaviour in how it publicly discusses its decision-making, the European Parliament has made efforts to avoid

these criticisms. The European Parliament's code of conduct regarding OLPs states, "After each trilogue, the negotiating team shall report back to the committee on the outcome of the negotiations and make all texts distributed available to the committee." (European Parliament 2012d). All parliamentary committee meetings are held publicly and final decisions are transparent in this regard. However more could be done to enhance this process. Committee meetings can be very technical and when decisions are made they are often done by a show of hands. As Arlene McCarthy pointed out there have been complaints, "that there was not enough transparency, that people did not understand what was going on, that the pace was sometimes very fast" (McCarthy 2009). With the democratic functioning of the legislative process at stake the European Parliament would be well placed to make trilogue meetings as transparent as possible. The Council has shown on many occasions over the years it is resistant to opening up its own decision-making process, therefore MEPs should make greater efforts to ensure this is exactly what happens with trilogue meetings. After all it was the European Parliament following a report by the European Ombudsman on Council transparency that stated, "public participation would be gravely undermined if one of the legislative authorities were required to make its preparatory deliberations and discussions accessible only when the final decision is taken or later" (European Parliament 2006c). The European Parliament would do well to take note of its own report considering the questionable practices which trilogue negotiations are undertaken. If the European Parliament wishes to be effective at influencing the Council's legislative decisions it should set an example that transparency and accountability on the supranational level is possible at all stages of the OLP. Otherwise the danger exists that intergovernmental practices in trilogue negotiations will control how legislation is adopted and public dissatisfaction will certainly continue.

When claims are therefore made that agreements are being made much earlier, attributing this to the success of the OLP, it should not be taken for granted this enhances the democratic process. Under the current system with agreements being made so early, even if lengthy trilogue meetings have taken place, it is the formal meetings that national parliaments base their evaluations on. Under a system where negotiations are behind closed doors and common positions are agreed between the institutions, national parliaments can be side-lined. As Simon Hix points out, "Because of these deals between the EU governments and the European Parliament behind the scenes it is now difficult for 'backbench' MEPs, let alone

national MPs, to scrutinise codecision legislation” (2009 p.3). With national parliaments and MEPs themselves having difficulties there is little hope for members of the public to stay informed and follow proceedings. It is a challenge in itself to engage with the public, a process weakened when their parliamentarians’ are side-lined. It is not surprising therefore to find views within the European Parliament expressing isolation and discontent. As Auke Zijlstra a non-attached MEP expresses, “There is no reason to deal away Dutch interests for the sake of having a working relationship. They don't care about us, we shouldn't care about them” (Zijlstra 2012). This might be a more extreme view but it should be a concern that any MEP feels this way. As has been shown the European Parliament is at its most effective and able to influence intergovernmental forces when it is united and internal discontent can easily spread. Trilogues offer the opportunity to speed up decision-making but it comes with a price in that it excludes the wider participation of MEPs. In order to enhance the adoption of legislation the European Parliament must provide greater transparency to a process it has fought for so many years to be involved in. Until then serious concerns exist regarding its behaviour and while a transition towards supranationalism has occurred it has done so with questions remaining over the European Parliament’s ability to add to this democratic process under the OLP.

The reasoning behind the European Parliament’s actions can be partially accounted for when the OLP is examined beyond the first reading stage. Adjusting to further legislative empowerment has meant procedural changes for the European Parliament as it develops more effective methods of behaviour in its efforts to influence. Understandably mistakes have been made, “On Friday, 24 April 2009 the plenary voted on the Staes report on Statistics for plants protection products but failed to reach the qualified majority required for second reading [...] This underlines how important it is to vote second reading reports on days which ensure the presence of most Members” (European Parliament 2009). Because of this second readings are now primarily scheduled for Tuesdays and Wednesdays though there is no procedures in place to ensure votes are only carried out when there is enough MEPs present for the proposal to be adopted. It should also be noted that under the first reading the European Parliament only has to secure a simple majority whereas under the second reading an absolute majority is required. This means it is easier for the largest political parties to cooperate and secure an agreement under the first reading. As statistics show, “during the first half of the 6th legislature 64% of files were concluded at 1st reading, 29% at second reading” (European

Parliament 2012 p.3). However the first half of the seventh legislature shows the figure for second reading agreements has decreased to 19% with 78% of agreements being reached in the first reading (European Parliament 2012e). Suggesting the largest political parties have a clear incentive to cooperate with the Council as early as possible and avoid the complexity of seeking an absolute majority to make amendments or ensure enough MEPs are present to vote along party lines under the second reading stage.

### **The Importance of Rapporteurs**

With such importance placed in the decision-making outcomes of trilogues, it is the associated rapporteurs and often shadow rapporteurs that have a privileged position in attending the meetings to negotiate. In his work within the European Commission Alain Servantie has first-hand experience in dealing with MEPs in formulating policy. In explaining the behaviour of rapporteurs in their swift negotiations with shadow rapporteurs, Alain Servantie explains, “When we have an agreement between the Socialists on one side, EPP on this side and the Liberals, we are sure that the compromise will pass, so it’s kind of hard to have a consensus and of course the extreme right or extreme left they may have their opinion but nobody cares” (Servantie 2011). These comments from Servantie and previously Zijlstra highlight just how relevant the political party system has become in establishing a system where some MEPs are far more influential than others. There is never going to be a perfect system of incorporating every parliamentarian's views, however there is far too comfortable an exclusion of views outside the main political parties. The size of a political party also determines the appointment of rapporteurship. It comes down to managing resources for political parties as all but the largest of parties can afford to be represented across the legislative process. As the Centre for Public Scrutiny correctly points out, “The two main groups in the European Parliament (the EPP-ED and the PES) are thus more likely to use this role as political leverage. Some coordinators also insist that their shadow rapporteur be the only one to table amendments in the committee” (2006 p.9). This raises questions about the functioning of the European Parliament's committee system given that MEPs can be pressured into acting as representatives of political parties rather than independent committee members. As a result, those MEPs outside the largest two political parties are unable to effectively scrutinise legislation and influence what amendments are adopted before a vote is

taken in plenary. Whether or not this is a weakness in European Parliamentary functioning is difficult to determine as including the opinion of several hundred MEPs would be unpractical and duplicate amendments would have to be filtered, therefore a further examination of the committee system is required.

### **European Parliamentary Committees**

As one would expect the European Parliament has a highly structured committee system to cover all manner of policy areas, interacting with each other and handling much of the legislative duties before it reaches plenary. But it still largely remains misunderstood just how vital parliamentary committees have become in shaping the European Parliament's outcomes. As McElroy states, "When asked to choose their first preference from among the EP posts of Group President, EP President, National Delegation Leader or Committee Chair, more respondents opted for a committee chair rather than any of the alternatives" (2006 p.9). This might be because for the European Parliament it is as close as MEPs can come to shaping the legislative agenda. Keith Taylor MEP elaborates on this process further, "The Committee, by co-ordinating the political groups, allocates one of its members as 'Rapporteur'. The Rapporteur is responsible for writing a Report on the Commission document on behalf of the Committee." (Taylor 2010). A rapporteur will be appointed through a means where the political parties bid on legislative proposals. Larger political parties hold more votes and are thus able to hold greater influence over the legislative agenda. This means smaller parties can be easily out-bid on prestigious proposals where media attention is likely to follow. More than this it means parliamentarians with expertise in smaller parties can be overlooked as competition can be fierce. However shadow rapporteurs are able to be appointed, offering the opportunity to include MEPs from smaller parties in order to gain further support or technical expertise.

The OLP covers a vast number of policy areas; energy, fisheries, agriculture, tourism, structural funds among others. Given the previous argument that the largest parties gain the greatest benefits from the OLP it is no wonder the leader of the EPP states, "Democracy is strengthened by extending the powers of the European Parliament, the only institution elected

by direct universal suffrage. Codecision becomes the rule” (Daul 2008). But what has been most striking given the new areas of competence for the European Parliament is the distribution of legislation. Over 50% of all legislation under the OLP between 2009 and 2011 fell within only five European Parliamentary committees (European Parliament 2012, p.3). This puts enormous pressure on European political parties to ensure they are well represented on those committees they wish to have most influence over. As József Szájer MEP Vice-Chair of the EPP responsible for parliamentary work argues, “It is not just a simple question of procedure, but a question of democracy, that the committees reflect the proportions which exist in plenary when important issues are decided.” (Szájer 2009). However it would only be natural for political parties like the Greens to seek influence and representation on the committee responsible for environmental policy compared to the Committee on Legal Affairs. In adapting to these needs and legislative empowerment the European Parliament has made attempts to improve the committee system. For example committees have the possibility to hold joint meetings and include the opinions of each other in preparing proposals where policy areas may cross between committees. However even though such options are available committees rarely provide an opinion. Such measures have in reality not contributed much towards formulating legislation as ultimately the largest political parties are already well represented across the committee system and seek instead to be represented on individual legislative proposals. Thus even though the European Parliament has strengthened its position in relation to the other institutions under the OLP it must also focus greater attention on its own internal behaviour. In order to make the most of its new powers committees should be encouraged to interact with each other and consider adopting measures which allow for MEPs to function across differing committees. At the moment a select number of MEPs in committees with high workloads gain influence at the democratic expense of other parliamentarians in quieter committees.

This means the actual proposal that is sent to plenary for discussion is one that has been amended by a select few parliamentarians, often taking part in trilogue meetings in order to secure interinstitutional support. While amendments are still able to be forwarded parliamentarians must rely on a division of labour where rapporteurs negotiate proposals on behalf of the European Parliament. As influential as rapporteurs and shadow rapporteurs are, they are only able to shape legislative proposals they are appointed. It is in being able to make these appointments where further power can be drawn, “Only recently recognised in the

EP's rules of procedure (Rule 192), party group coordinators considerably influence the work of the EP's committee system, while often rivalling the committee's bureau (chair and vicechair persons)." (Kaeding and Obholzer 2012, p.14). If the European Parliament is to be successful in influencing the opinion of the Council and Commission in negotiating the legislative proposal the party group coordinators are crucial in appointing the right rapporteurs. MEPs will wish to scrutinise legislative proposals at readings but they also face pressure to conform by their political parties. It is in this conflict where party group coordinators become so crucial. For example, compromises will often be made between institutions in trilogues and between political parties in adopting legislation. MEPs not privy to trilogue negotiations will have to trust their fellow parliamentarians regarding concessions which have been made and to support decisions they might not fully agree with in order to make gains in other areas. Without such a focussed framework MEPs would leave themselves primarily exposed to the interests of Member States where parliamentarians are originally, for the time being, nominated through domestic political parties.

Again, as with investiture and enlargement issues, the importance of the European political parties are central to the workings of the European Parliament in a manner more like that of national parliaments. Because of this, "The four main political groups' coordinators enjoy particularly strong positions, due to the required consensual approach. They also play a key role in liaising with other members of their group who are not members of the Committee, and in 'selling' reports and amendments to them." (Centre for Public Scrutiny 2006, p.20). This 'selling' means political parties can cooperate and function more harmoniously when it comes to scrutinising in plenary. Party group coordinators can push for support among the party ranks to support a legislative proposal or rally parliamentarians to scrutinise its contents. By doing this work MEPs become further integrated in their efforts and the European Parliament has all the more chance of influencing the legislation adopted. With the OLP covering the majority of Commission proposals MEPs are exposed to a routine in adopting and amending legislation in the knowledge what amendments are the Council must take them seriously. Familiarity means networks and practices are strengthened in a process where parliamentarians may change over terms but the system remains the same. This enables socialization to take place, as described by sociological institutionalism, as the Council ultimately negotiates with the European Parliament on a daily basis where consensus is required. The Council and European Parliament have developed the trilogue practice

together on equal terms unlike in previous legislative procedures where MEPs were forced to operate in a system dominated by intergovernmental forces. This aspect of supranationalism does enhance the democratic process as the Council no longer has the upper hand and must treat MEPs as equals in negotiations.

In previous years the Council could afford to make less effort to appease the European Parliament, though now if rapporteurs are not satisfied with the outcome of negotiations a system is in place whereby party group coordinators are able to quickly gain support and to vote down the legislative proposal. Interestingly the European Parliament is attempting to maximise its influence with the Council by removing the need for wide cross party input from MEPs. Trilogues have introduced a practice of decision-making less transparent than formal meetings however, the ability to reach early agreements has forged a closer working relationship. Statistics show only twenty-nine instances of conciliation committees in the first half of the seventh parliamentary term (European Parliament 2012f). It is because of this potential for the Council, Commission and European Parliament to cooperate informally that so few legislative proposals are now put at risk of failing. As Phil Prendergast MEP argues, “Experience demonstrates that, as the institutions interacted over the decades, and as the European Parliament's powers were progressively expanded by Treaty reforms, the working relationship has evolved and improved. The increasing numbers of legislative files approved at 1st reading are a good indicator.” (Prendergast 2012l). As long as the European Parliament continues to work on its ability to share information from trilogue meetings the European Union will not return to a period where documents were kept out of the public domain. Informal meetings are a political reality of decision-making and the European Parliament is no exception, rather it should be viewed as a consequence of its growing influence.

Improvements in the legislative process could still be made by the European Parliament and explains why Andrew Duff MEP made efforts to introduce the mandatory use of roll-call votes, although this failed to gain enough support in the Constitutional Affairs Committee. According to Duff, “Over 75% of all EU laws are now made at first reading, which puts the spotlight on how MEPs vote in committee. It is a pity that Parliament has decided today not to turn that spotlight on. Voting at committee stage of law making will remain opaque to the detriment of the work of the media and those who follow closely the work of the European



Parliament.” (Duff 2012). Mandatory Roll-call voting would have exposed on record how MEPs voted and made their behaviour all the more accountable. It would have also allowed for much more detailed research into legislative decision-making in the European Parliament. Problems with quantitative analysis in this field have been perceived for many years widespread however, roll-call voting would have pressured MEPs to justify their actions held on record. As Judge and Earnshaw note when examining information on the co-operation procedure; “the figures are unable to distinguish between ‘substantive’ amendments, designed to be accepted, and ‘propagandistic’ amendments, designed to advance an issue up the policy agenda of Council and Commission” (1996, p.102). This behaviour might seem surprising or that such actions might still occur. However as Alyn Smith points out, “We've recently implemented a blue card system where you can ask for a point of information but I've used it once against a UKIP member just out of badness, you don't really see it used very often” (Smith 2010). Certainly this was only a minor incident but with 750 MEPs, each with the possibility to behave in such a manner, tabling a questionable amendment or disrupting a debate it adds up to a great deal of resources wasted. Any reliance on quantitative information in order to determine the influence of the European Parliament in legislative politics should therefore be limited. For this reason a case study will now be examined in legislative politics based around qualitative methods.

### **Case Study: Schengen Legal Basis**

One instance of conflict that has been brought to the public's attention has been concerning the legislative proposal on the Schengen Evaluation Mechanism. This is part of a legislative package that also contains a proposal regulating the temporary introduction of border controls. It was at the Council's Justice and Home Affairs meeting in June 2012 where controversial changes were made to this legislative proposal. The Council had decided to change the legal basis of the proposal from Article 77(2)(e) to Article 70 TFEU which meant that the OLP was no longer relevant. Instead the Council was willing to consult the European Parliament on a purely voluntary basis on matters associated with this proposal. However the reaction from the European Parliament was fierce and the major political parties moved quickly in expressing their opinions. This case study will examine the political fallout and behaviour of MEPs occurring as a result of the Council's decision, in order to help determine

how the European Parliament is able to deal with interinstitutional conflict and resolution. In this dispute the interinstitutional relationship has been tested and the opinions of a number of prominent actors involved will be central. In order to ensure this case study is accurate and original many of the actors directly involved have been approached and questioned from both the Council and the European Parliament.

### **Failure of the Rapporteur**

Carlos Coelho MEP, member of the EPP, was appointed as rapporteur on the legislative proposal in question. Many months before the Council's decision to change the legal basis there was an indication that this might occur. The Council was in preliminary discussions about such a change, even seeking the opinion of its legal services department, suggesting it was a sensitive change to make. There appears to be from an early stage some confusion between the Council and European Parliament about just how serious this change was being considered. Upon receiving a communication from the Danish Presidency on opening negotiations, Coelho MEP addresses fellow parliamentarians stating, "That means the Council is not going to vote the change of legal basis, that means the Council is not starting a war against the Parliament." (Coelho 2012). From this language alone it is clear how dramatic this conflict was to become and how confident MEPs were at this stage. With the change in legal basis therefore being made it raises concerns about the overconfidence of Coelho's previous statement, mainly in that fellow parliamentarians were incorrectly informed. Of course there will always be assumptions and opinions that ultimately prove to be wrong as actors communicate. But as the Council elaborates, "The Presidency, in the event of agreement on a change of the legal basis, proposes [...] to consult the European Parliament on this instrument in order to take the opinion of the European Parliament into consideration, to ensure that the position of the European Parliament is reflected to the furthest extent possible." (Council 2012). It is therefore puzzling why Coelho MEP took the Council's communication as an indication the change would not occur. Particularly as pointed out that it is in the Council's Rules of Procedure to seek such an opinion from the European Parliament. One possibility concerns the legislative proposal concerning border controls, "The proposal on common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances (SBC) underlies the ordinary legislative procedure."

(Grahammer 2012). Such an underlining of the OLP here could have prepared the European Parliament for a similar decision regarding the rest of the legislative package. Communication and cooperation has been a key issue for MEPs in the fight for interinstitutional equality. MEPs from the Budgetary Control Committee openly refused, “to grant the Council discharge for its spending in 2010, following the Council's complete lack of cooperation with the committee” (European Parliament 2012g). With this in mind it is understandable why the Council sought to include the European Parliament to the fullest as lack of communication alone could have supported any legal challenge by MEPs over Schengen. Keys to the purse have also allowed the European Parliament to take budgetary action when conflict arises in a non-financial aspect. As the behaviour of the Committee on Budget shows, “Due to a conflict with the Council over the legal basis of decisions on the Schengen border check-free area, MEPs decided to put 75% of the budget for four Schengen-related programmes in a reserve, pending a resolution of the issue.” (European Parliament 2012j). The European Parliament remains determined to draw out the dispute until a satisfactory settlement is achieved.

### **A United Parliament**

What the eventual change in legal basis did do was to unify the three largest European political parties in responding to events. As Birgit Sippel MEP states, “The decision of the JHA Council represents a slap in the face of parliamentary democracy and is unacceptable to the directly elected representatives of European citizens.” (Sippel 2012). The outcome was that the Conference of Presidents suspended cooperation on five dossiers until a satisfactory outcome could be reached. As Martin Schulz President of the European Parliament stated, “It is without precedent that in the middle of the legislative process, one co-legislative chamber excludes the other.” (Schulz 2012). From these comments and striking actions by the Conference of President it might suggest the European Parliament was unified in its opinion. However the European Conservatives and Reformists (ECR) was the most vocal critic of the position taken by the other parties. As the ECR's speaker in the debate following the legal change in the European Parliament Anthea McIntyre MEP stated, “We should not react with a childish tantrum and throw our toys out of the pram. These are very challenging times for the EU and we need good working relations between the institutions. The first step should be

to investigate the legal consequences of the Council's action.” (McIntyre 2012). Instead of doing so the largest political parties took action and dealt with the legislative change as a threat to their authority. They certainly have the authority to suspend negotiations on whatever dossiers they like. Although the manner in how this was done has caused problems of its own which must be addressed. For example as Timothy Kirkhope MEP explains, “I was not consulted before my report on EU PNR was blocked by people that have had no involvement in the negotiations.” (Kirkhope 2012b). As rapporteur on one of the dossiers where negotiations was suspended, Kirkhope MEP was at the mercy of the decision of the Conference of Presidents. What is surprising is why the opinions of the rapporteurs' on the dossiers were not consulted or even warned of the decision about to be taken.

The alternative to a united front by the European Parliament should also be considered here. Take for example the legislative proposal on Transitional arrangements for bilateral investment agreements between Member States and third countries. As the rapporteur Carl Schlyter MEP expresses quite clearly,

“We have had a lot of meetings and we have tried to find a common position, but without success [...] I would have liked us to have had a position that we all agreed on in order to be better placed to enter into negotiations with the Council. We would then have been able to defend Parliament's powers and principles as laid down in the Treaty.” (Schlyter 2011).

Because of this lack of agreement between the political parties the negotiations have suffered. If this example was viewed in isolation it would be therefore possible to discern a European Parliament incapable of influencing the Member States where preferences are limited to exogenous factors. As Knut Fleckenstein MEP and rapporteur on a legislative proposal for European Maritime Safety Agency indicates, “In committee, the report received the support of a large majority. It is intended to make it clear that Parliament takes its proposals seriously” (Fleckenstein 2011). From these statements there is a greater chance of success in influencing the Council when MEPs are untied and each legislative proposal must be viewed individually. Both Schlyter's and Fleckenstein's legislative proposals have reached the second reading stage and face possible conciliation in order to find a compromise. Between 2009 and 2011 only 4% of legislative proposals were forced into conciliation (European Parliament 2012h). This does provide a last chance to find a possible agreed text though as Weber MEP mentions, “Parliament and Council should regard conciliation only as a last resort measure and always try to agree on a text before that, since the level of transparency is much higher in

first and second reading agreements.” (Weber 2012). Now with the Schengen legal change the option for such a conciliation does not exist which reaffirms just how important the early stages of legislative decision-making under the OLP have become.

Overall the view expressed by MEPs has been in support of the decision by the Conference of Presidents. As Sophie in 't Veld MEP and Vice-Chair of the Committee on Civil Liberties, Justice and Home Affairs expressed when asked about her view on the change in legal base she made it quite clear this was, “Ridiculous obviously and I think the majority of Parliament did” (Veld 2012). Not only does this decision by the Council seem to have surprised MEPs it has generated strong criticism throughout the European Parliament. Elaborating on these views Veld MEP notes in recent years, “the Council, that is the Member States, are trying to do a kind of power grab in many areas and kind of renationalise European policies and not only that but what's worse to remove it from democratic scrutiny because if you do things in an intergovernmental way [...] you don't have any effective democratic scrutiny” (Veld 2012). This makes the voluntary efforts by the Council to consult the European Parliament appear as a symbolic gesture. The European Parliament is no stranger to consultation powers especially prior to the Lisbon Treaty, suggesting there is little value in the participation as a consulted party. Even though drastic actions were taken by the Conference of Presidents the European Parliament is powerless to stop the intergovernmental change undertaken by the Council. What sociological institutionalism can explain here is why the Council made the efforts it has done to incorporate parliamentary views and granting consultation privileges it otherwise did not have to. Member States are openly inviting the European Parliament to participate in a process it would have been more likely to act on in a unilateral fashion in the past. However the Council has still paid a price for its behaviour in relations with the European Parliament. This can explain why the Council does not attempt such actions more regularly or at least without seeking legal advice and the opinion of MEPs. Also, Schengen matters touch on high level sovereignty issues, what would be classed as high politics. Therefore where matters touch on a sensitive political issue, the Council was willing to take the risk in changing the legal basis and deal with the political fallout in the knowledge it had legal consent.

## Poor Communication

One of the most interesting arguments that came from this case study was that the European Parliament had failed to participate in a positive manner regarding Schengen policy and as a result forced the Council to change the legal basis. As Auke Zijlstra MEP argues, “I think the Council's decision was the right one. The presidency declared it had nothing to do with wanting to exclude the EP, but even if it was, it was the right decision. The EP has done nothing to address the negative issues that come with having no border control, and not once have they even acknowledged that there were negative effects.” (Zijlstra 2012). In this sense the European Parliament miscalculated the importance Member States had placed on Schengen-related matters. By this logic then, if the European Parliament had been more proactive or sensitive to the needs of the Member States the need to change the legal basis might not have occurred. This is why questioning members of the Council has been so important to this case study as it provides clarification where many MEPs have made claims about the behaviour of the Council's decision to change the legal basis. For Rytönen who is part of the Permanent Representation of Finland to the EU for Justice and Home Affairs, “In the preliminary discussions the Parliament and the Council have been very much in the same lines with content of the draft regulation. The Council would prefer the co-decision but unfortunately the correct legal basis does not allow that. However, a legal basis cannot be selected by political reasons.” (Rytönen 2012). This statement by Rytönen raises an important distinction between how Schengen is viewed by different actors. For the Council it is about finding the correct procedure whereas the European Parliament places a supranational value on this issue Member States did not comprehend. But as Pöllu assures, “taking into account essence of Schengen mechanism, the EP opinions were and still are important to Member States.” (Pöllu 2012). In this respect even though the European Parliament has no formal inclusion it still has the means to influence the Member States informally. Therefore according to the opinion within the Council changing the legal basis was done because it was the correct legal action in the best interests of the European Union rather than any power strategic power grab.

The Danish Justice Minister representing the Council's Presidency, while addressing the European Parliament, made it known that the Council was following the very clear statements

from the legal services on this proposal (Bødskov 2012). This argument appears to have escaped many of the MEPs in favour of the OLP being the legal basis for the Schengen Evaluation Mechanism. Rytkönen goes on to further explain this should have come as no surprise given “Reasoning for the decision was based solely on legal facts, and does not anything to do with politics. TFEU 70 was taken in the Treaty exactly for these kinds of evaluation mechanisms. As a matter of fact, the Schengen evaluation was used as an example when this article was drafted in the Lisbon Treaty.” (Rytkönen 2012). From this it would seem surprising the European Parliament has acted in the manner it has. While MEPs make reference to a political motive by the Council to strengthen intergovernmentalism, those within the Council are basing their decision on legality and the overall interests of the European Union. There seems little understanding between the Council and European Parliament surrounding this legal change. Few MEPs are addressing the legal change in terms of what the correct legal framework might be. Therefore in order to find an answer that combines the European Parliament's concerns and the Council's actions the efforts of the European Commission will go some way in providing an explanation. Although the Commission's influence here has been limited, Cecilia Malmström Commissioner for Home Affairs raises a good point on the legislative proposal in question, “The legal basis for this would be Article 77, because only then would there be a robust evaluation with binding impact and an increase in political legitimacy, as the European Parliament would be a co-legislator. This is not just a legal proposal; it is also a political ambition.” (Malmström 2012). With this argument the proposal goes beyond just a legal document in that the free movement of people is a political ideal situated at the heart of the integration project.

### **An Emotional Response**

Schengen is a sensitive issue for the European Parliament and explains why the Conference of Presidents acted in the manner it did. As Kristo Põllu Estonian Permanent Representation to the EU for Justice and Home Affairs argues, “I’d describe the response as out of balance and emotional rather than rational.” (Põllu 2012). This leaves the suggestion that the European Parliament was also setting a precedent. By behaving as drastically as it did the Conference of Presidents was able to express their dissatisfaction but also drew a great deal

of media attention that showcased MEPs fighting for the sharing of power over aspects of Schengen. As Rytönen also claims,

The EU institutions are aiming a little bit different goals. EP is very keen on ensuring the free movement of persons. The MS are struggling with illegal immigration, cross border crime and increasing passengers' flows, and would need more tools for managing these issues. And the Commission is somewhere in the middle. (Rytönen 2012).

Therefore understanding the behaviour of the institutions here means understanding the objectives of each. This understanding of the interinstitutional relationship highlights those within the Council would be aware the European Parliament has interests beyond what the legal interpretation alone has to say on the change of legal basis. In fact as Pöllu mentions, "Never throughout the negotiations was there an aim by its own to remove co-legislator, rather opposite, the Council has been trying to take ideas from the EP on board as much as possible. Being present at all rounds of talks, I can assure the EP's position was constantly taken into account." (Pöllu 2012). This behaviour by the Council in making strides to incorporate the European Parliament's opinion and seek legal advice shows the degree of socialisation, suggested by sociological institutionalism, taking place regarding these decisions. Even though the outcome removes the European Parliament as a co-legislator over the Schengen Evaluation Mechanism it does so after careful consideration and continuous efforts to communicate. What Member States have done is prepare themselves for any legal challenge by the European Parliament and have showcased as publicly as possible their desire to move forward with full consultation of MEPs. This is part of an ongoing process where a change in the Council's behaviour can be witnessed, "The Council also revised its rules of procedure to adapt them to the Treaty of Lisbon. Main changes relate, for example, to the organisation of the Presidency and transparency: as of 1 December 2009 all debates on legislative acts in Council will be public" (European Parliament 2009c). Even as the European Parliament lost ground from the result of Schengen legal interpretations, it does so with a Council making every effort to appease its members, a behaviour that was not always so apparent prior to the Lisbon Treaty.

A solution to the conflict will eventually be found but what the European Parliament cleverly did was to manoeuvre blame for the fallout towards the Danish Presidency of the Council. As Sippel mentions, "I hope that the new Presidency of the Council will show its readiness to find a convincing solution to the current deadlock in order to stop the fragmentation of the



Schengen area.” (Sippel 2012), leaving the door open for a resolution to the conflict and wiping the slate for future negotiations. This avenue for resolution also seems to be similar to the view held in the Council, “All institutions are eventually interested in progress.” (Pöllu 2012). Even with this conflict halting the cooperation between the European Parliament and the Council both have an understanding in how this can be resolved in a manner satisfactory to both. A new Council Presidency means MEPs can blame events on the previous Presidency and the Council looks likely to get its way regarding changing the legal base. The European Parliament may have lost out in being able to co-legislate for the moment on this proposal but a historic precedent has been set future Council Presidencies will be aware of when negotiating with the European Parliament. If the European Parliament had simply accepted the change and not challenged the Council's decision with strong preemptive language and a rapid response by the Conference of Presidents, the Council's behaviour would certainly have been to seek similar changes without as much careful consideration of the European Parliament's view in the future. Rightly or wrongly, removing the use of the OLP has highlighted a European Parliament that is prepared to challenge the Member States over an area of policy intergovernmentalists would regard as central to their sovereignty in order to ensure as much of it as possible is kept within the community method.

## **Conclusion**

This chapter and case study has examined the significant role the European Parliament now holds in legislative politics. The OLP and its widespread use have been shown to impact the functioning of democracy in a number of ways. Firstly MEPs have structured their behaviour around the need to designate legislative proposals to committees where rapporteurs can be appointed. They have done so in a manner that benefits the largest political parties and offers the MEPs on the fringes little opportunity to influence European Parliamentary opinion. Such practices are not undemocratic as the potential for opinion and input would stall the European Parliament from adopting a position without an effective means of consensus building. Secondly trilogue meetings have become common practice in order to achieve early agreements between the institutions. This informal practice comes at the expense of transparency where decisions are taken behind closed doors. However informal meetings are entirely acceptable as long as the European Parliament continues to make MEPs aware of

opinions and documents produced. Ultimately decisions must still be taken in plenary under public view and the European Parliament is able to influence Member States as decisions are now taken where no institution has an advantage. In this respect sociological institutionalism accounts for the change in behaviour where the Council and European Parliament now largely cooperate through socialisation where an acknowledgment over the need for each other's consent has emerged. For further improvements to be made the introduction of roll-call voting would not only strengthen the accountability of MEPs it would increase transparency in a process still reliant on a show of hands as a democratic method of decision-making. The problem lies in that the European Parliament has made continues efforts to promote transparency in other institutions and it must also expect the same standards of itself where no convincing argument has been put forward to continue the current practice.

As shown with the case study, interinstitutional conflict has not been removed from the legislative procedure even though conciliation committees have decreased as a means of resolution. However the most important change is the ability and willingness of the European Parliament to express its concern into different policy areas by suspending financial resources and halting progress on other legislative proposals. There is also a lack of understanding between the Council and the European Parliament over Schengen as MEPs attribute a value on this policy that goes beyond a political decision. This is also part of a wider dispute between liberal intergovernmentalists and sociological institutionalists over the understanding of values and their importance on policies. Despite MEPs being able to influence the actions of the Council in seeking a high degree of European Parliamentary input as sociological institutionalism would predict, this alone has not been enough to avoid conflict. The Council remains favourable towards the reintroduction of certain Schengen policies as an intergovernmental decision, even though it has taken considerable measures in seeking approval where it once would not have done so. It is this balance between the two theories that addresses the processes involved in this case study. Relying on one theory alone would weaken the interpretation of events as supranational and intergovernmental forces clash. The lack of understanding has also led MEPs to make false claims about the motives of the Council, comparing its actions to that of a power grab and Coelho's prediction on Council behaviour being proven entirely wrong. Doing so questions the democratic behaviour of the European Parliament and shows room for improvement could be made on interinstitutional communication. Although the European Parliament has not achieved its goals relating to

Schengen it has still improved the process of accountability here, as the Council has explained its behaviour extensively and remains positive about European Parliamentary involvement. These are overall real improvements in the democratic functioning of the European Union where the Council's legislative opinion is scrutinised and interinstitutional cooperation is a necessity for legislative decision-making.

## **Conclusion**

This thesis set out to establish the European Parliament's ability to enhance the functioning of democracy within the European Union. It recognised the Lisbon Treaty had made a series of reforms to the European Parliament's institutional position relative to the other institutions of the European Union. Each reform was in some way aimed at strengthening legitimacy through the community method where decision-making is largely dispersed between the Commission, Council and European Parliament. With this in mind it was the goal of this thesis to address the specific contribution the European Parliament has made in promoting democratic behaviour through an examination of the power of appointment, enlargement policy and legislative politics. In order to do this the first chapter set out to justify the importance of the research question and the contribution this would make to the field of knowledge. It was recognised the European Parliament's role in European Union affairs also leads to influence over the external environment where there is still a great deal of political uncertainty, even though the Member States have achieved stability. The structure of the thesis was outlined and a series of four questions were identified in order to serve an initial examination into the European Parliament's involvement in the policy areas mentioned. This enabled the European Parliament to be judged its ability to promote democratic legitimacy which would be outlined further in chapter two.

The second chapter started with a chronological narrative of the initial role of the European Parliament and its democratic role, relative to the other institutions of the European Union. Only by understanding this evolution can an accurate conclusion be formulated on the current institutional framework. This chapter would have benefited from the inclusion of a wider use of founding documents on the European Parliament as some were only ever published in a limited number of languages. While this did not restrict the goals of this chapter it would have been beneficial to incorporate their further use in endorsing what material was available on the creation of this institution. As was shown the European Parliament developed incrementally for logical reasons. It was able to develop signs of an independent agenda early on and the examination allowed this thesis to understand what reasonable expectations the European Parliament should be judged on given the stages of empowerment which took place. This was built on with a discussion on the European Parliament's current role in

promoting legitimacy which provided an account of the debate surrounding the democratic deficit. It was found much of the debate focuses on either intergovernmentalist or supranationalist methods of providing legitimacy. However as the integration project continued to promote supranational decision-making through the Lisbon Treaty, supporting documents and prominent actors this chapter was able to highlight three key attributes the European Union has pursued in order to provide legitimacy, these include: accountability, scrutiny and transparency. The resulting discussion on previous literature also found the importance placed on electoral turnout in European Parliamentary elections represented an area of disagreement among scholars. It was found this represents a wider weakness in European Union interest and should not devalue the expectation of the European Parliament to operate according the responsibilities bestowed upon it. Therefore this chapter contributes not just an understanding of the European Parliament's role in the development of European Union democracy but a basis for this thesis to judge how successful it has done so.

In developing the third chapter of this thesis it was important to provide a detailed account of the most appropriate theories on European integration. From intergovernmentalism, functionalism and new institutionalism the relative strengths and weaknesses of each were reported. In doing so, liberal intergovernmentalism was exposed as the most credible theory in accounting for the current position of Member States in the functioning of the European Union. However it was also mentioned that this theory was unable to adequately account for all aspects of supranational behaviour and required the consideration that an alternative perspective might be useful. Only through their deployment in the final chapters would these theories be fully tested against the data collected in this thesis. In collecting this data it was also necessary to provide a discussion on the methodological approaches incorporated. Qualitative research methods were justified as the primary source of data collection through semi-structured interviews. Every effort was made to ensure the accuracy of data was correct through the observation of events where possible and a wide inclusion of secondary sources. Therefore the role of this chapter was to ensure the data being collected was done so to a high standard as this contributed towards the conclusions of the remaining chapters.

The fourth chapter focussed on the European Parliament's role in the appointment of the European Commission and possible removal through censure. It broke down the process into

several stages where MEPs have become involved beyond its original role in conducting a vote and provided a case study on the failed attempt by Member States to appoint Jeleva as a Commissioner. The contribution of this chapter highlighted the substantial involvement and influence the European Parliament now possesses over the appointment of the Commission. Each Commissioner is scrutinised from an early stage through questionnaires and the disclosure of financial history, even though not all Commissioners are as forthright as others. MEPs conduct lengthy hearings to scrutinise Commissioners personally and are able to hold them accountable on their responses throughout their term in office. This process has also improved transparency as hearings are streamed live for citizens to view and documents produced are made available for public scrutiny. Some weaknesses were exposed in that the European Parliament had the potential to show bias towards candidates through party affiliation and a stricter interpretation of the rules should be present during hearings. There were also real weaknesses in how the European Parliament attempted to use the power to censure the College and this warrants further reform in order to ensure this power is not used to disrupt the democratic process in the future. It is worth mentioning that the case study in this chapter would have benefited from the inclusion of Jeleva's input after the hearing as attempts to include her opinion were unsuccessful. Other Commissioner opinions were included although, as the case study focussed on Jeleva it would have produced useful data to include in the formation of this case studies findings. It would also have been useful to interview Andrew Duff MEP as he was selected as rapporteur for the European Commissioner hearings however this was not possible. Instead this chapter relied on Duff's opinion as stated on record through press conferences and published statements.

Enlargement of the European Union and the European Parliament's role in facilitating this was the contribution of the fifth chapter in this thesis. MEPs were shown to be actively involved in the participation of enlargement policy beyond the power attributed to them in the treaties with Vigenin MEP even suggesting they are more important than they should be. The European Parliament has had a significant impact on the scrutiny of the Copenhagen criteria making the process on which candidates are judged more transparent. However not all improvements in transparency have led to democratic gains as MEPs were criticised over their inability to forward opinions to the European Council on time. This has direct implications on holding the Council accountable for their actions given the European Parliament had a clear opportunity influence and failed to do so. The case study was able to

contribute towards a better understanding of the independent role MEPs now have in forming external relationships with candidate countries. It also exposed the weaknesses of liberal intergovernmental claims surrounding the role of supranational institutions like the European Parliament and Commission. Both these institutions are now engaging in a new level of decision-making that Member States have little control over. Although this does not grant the European Parliament any formal new powers it does facilitate ongoing enlargement policy and leads to the socialisation of actors as they become exposed to supranational forces. It would have been beneficial to witness a meeting of the EU-Iceland JPC however these meetings are not yet open to public viewing. Instead this chapter relied on the opinion of several actors involved in the process and the resulting publication of meeting documents. As these meetings are held both in the European Parliament and then in the candidate country it is understandable why restrictions are placed on their viewing. However when they are held in the European Parliament there is no excuse for not providing a video recording that would further enhance the transparency process and would improve the findings of this chapter. This would further expose candidate countries to the culture of openness MEPs have fought for so long to promote.

The sixth chapter devoted attention towards the legislative process of the European Union and the European Parliament direct participation in this. In doing so this chapter contributed towards a detailed understanding of the role MEPs now play in the use of the OLP where the vast majority of legislation is adopted. Here the European Parliament was shown to be on an equal par with the Council where control over the formation of legislation had resided for so long. A case study involving an area of major interinstitutional conflict was examined in order to determine the influence of the European Parliament and the democratic behaviour of MEPs. It was found a deep division exists between the supranational actors in the European Parliament and the intergovernmental interest of the Member States over the importance of policy area like the free movement of peoples related to Schengen. Transparency was also called into questioning concerning the behaviour of MEPs in the undertaking of informal trilogue meetings to secure early agreements with the Council. As a result, holding those actors accountable for the formation of legislation was weakened when it is difficult to examine the full decision-making process. This was further explored in the failure of the European Parliament to incorporate the mainstream use of roll-call voting where scrutiny on the work of MEPs would be improved as a result. In fact this thesis would have benefited

from the interpretation of such roll-call votes had they been a more reliable source of information along with an official record of decisions being taken in trilogues.

### **Thesis as a whole**

In order to conclude whether the supranational transfer of power towards the European Parliament has resulted in the enhancement of democratic legitimacy in the European Union, it is important to discuss number of issues. Each policy area examined resulted in different levels of supranational benefits, many of which have been heavily influenced by the devotion of parliamentary resources and the input of MEPs themselves. For example in relation to the supranational scrutiny of Commissioner-designates, party affiliation weakened the ability of political parties to scrutinise their own candidates and this was only overcome through the pressure of competing parties. Concerns were also raised over the practices that have developed in trilogue meetings, only possible because of the need for further supranational influence in adopting legislation. In regards to the competence of MEPs themselves their behaviour is influenced by the Rules of Procedure they continuously update throughout the parliamentary term. It remains surprising therefore that further reform has not taken place regarding the transparency of trilogue meetings where it becomes difficult for the viewing public to follow outcomes. This was further shown in the limitations of the rules governing the forwarding of a motion of censure where disruptive MEPs have previously hijacked the procedure to meet their own political needs rather than pursuing the legitimate interests of the European Union as a whole. In order for the European Parliament to move towards further strengthening of European Union democracy it must expect itself to meet the same standards of behaviour it has set for external actors.

Even with the concerns raised throughout this thesis the European Parliament was able to show, more often than not, it does actively contribute in a positive manner to the functioning of the European Union. For instance, in the case of enlargement policy the European Parliament had made several improvements in how candidate countries are scrutinised while forming influential relationships directly with national actors out with intergovernmental restraints. Intergovernmentalism as a method of decision-making is therefore no longer the



dominant influence it once was. Member States have been shown to not only have their actions restricted but directly influenced from the supranational framework that has been created, especially in the everyday exchanges that occur between the institutions. For that reason sociological institutionalism began to make itself useful as an explanatory perspective where liberal intergovernmentalism failed. This was shown through the improved cooperative relationship of the Commission and European Parliament and the resulting influence in holding individual actors accountable. Even as Member States made direct challenges to formation of interinstitutional agreements they were unable to control the actions of the European Commission. Such examples wholly question liberal intergovernmental claims that Member State preferences remain the most important factor in determining the outcome of decision-making and supranational behaviour. It therefore also weakens the argument that Member States are able to provide the necessary democratic credentials on decision-making. Instead the significant involvement of the European Parliament is now required in order for the European Union to function across all policy areas examined by this thesis even without producing high levels of voter turnout in elections.

Therefore the enhancement of democracy has not come from the direct participation of the electorate in European elections as voter turnout remains at an all time low. This has resulted in significant disagreement within the literature surrounding the ideal form of democracy for the European Union and the need for voter participation however; this forms a wider debate on classifying the European Union itself. As was shown the European Union should not be compared to a nation state nor should it be subject to electoral demands, especially where national influences still control the mechanisms for electing supranational parliamentarians. The European Parliament has limited influence over elections themselves and Member States are failing in their responsibility to generate the level of public interest generally seen in national general elections. As a result the European Parliament has been judged on the democratic behaviour it can influence through the promotion of accountability, scrutiny and transparency. These principles are not only represented in the Lisbon Treaty itself but form the desired goals of the European Union through successive reforms since the European Parliament was first seen as a solution to the democratic deficit problem. While this has not always been possible or achieved to the highest standards, the European Parliament has made significant improvements in promoting all three. Part of the difficulty has come from the European Parliament making full use of its new powers and this will require further

adjustments as institutions get used to this change. This helps to explain the political conflict between the European Parliament and the Council; Schengen, Framework Agreements and rejection of Commissioner-designates, as these are all examples where the promotion of accountability, scrutiny and transparency by MEPs has led to further democratic considerations the institutional framework is adjusting to.

### **Considerations for the future**

As mentioned, one of the European Parliament's main criticisms comes from its low voter turnout, however it is possible through its role in promoting the democratic functioning of the European Union voters will begin to participate in future elections. It already consists of political parties largely representative of the parties on the national level. Where progress needs to be made is promoting the work of the European Parliament on national platforms. MEPs still largely rely on national parties for election which makes it difficult for candidates to campaign on supranational issues. Strengthening the operation of European political parties will only go so far as Member States must promote European Parliamentary elections on the basis of supranational considerations. This ties in with the problem with of relying on liberal intergovernmentalism as a theoretical approach to the understanding of European Union affairs, decision-making has moved towards supranationalism yet the election of MEPs remains restricted by intergovernmental forces. It is only through an awareness that nationally elected candidates to the European Parliament develop an independent agenda in pursuit of supranational goals can an understanding of European Union affairs be better understood. This thesis has done so with the inclusion of sociological intuitionism as a supporting perspective in explaining the formation of actors' preferences alongside the intergovernmental forces that still exists in decision-making. Liberal intergovernmentalism was shown to interpret well the central positioning of the Member States, especially in regards to the treaties to the powers ascribed to them in the treaties. However, the treaties alone are not able to account for the influence MEPs have been able to promote on the behaviour of actors. Both these theories therefore have allowed this thesis to acknowledge that behaviour is just as important as the allocation of powers in the actual functioning of the European Union and future examinations would also benefit from this.

## Appendix

### **The following individuals have been interviewed in relation to this thesis by the author:**

Bendixen, Henrik. (2011). Head of the EU Delegation to Iceland.

Brzobohatá, Zuzana. (2011). MEP and Member of the EU-Iceland JPC.

Dröll, Peter. (2009). Head of Unit, DG Enterprise, European Commission.

Dunn, Bill Newton. (2011). MEP and Whip of UK's Liberal Democrat MEPs.

Goerens, Charles. (2010). MEP and Member of the Bureau for the Group of the Alliance of Liberals and Democrats for Europe.

Grahammer, Walter. (2012). Austrian Permanent Representation to the EU.

Hall, Fiona. (2009). MEP and Member of the Bureau for the Group of ALDE.

Heaton-Harris, Christopher. (2009). MEP and Member of the European People's Party.

Jóhannesson, Stefan Haukar. (2011). Chief Negotiator of Iceland's Negotiation Committee.

Jónsdóttir, Birgitta. (2011) MP and Member of the EU-Iceland JPC.

Franziska, Keller. (2010). MEP and Member of the Group of the Greens/European Free Alliance.

Kirkhope, Timothy. (2012). MEP and Member of the European Conservatives and Reformists.

Pollu, Kristo. (2012). Estonian Permanent Representation to the EU.

Prendergast, Phil. (2012). MEP and Member of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament.

Rübig, Paul. (2011). MEP and Member of the EU-Iceland JPC.

Rytkönen, Mika. (2012). Finnish Permanent Representation to the EU.

Sargentini, Judith. (2010). MEP and Member of the Group of the Greens/European Free Alliance.

Servantie, Alain. (2011). Senior Advisor within the European Commission's enlargement Directorate.

Sippel Birgit. (2012). MEP and Member of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament.

Ossur, Skarphéðinsson. (2011). Icelandic Minister for Foreign Affairs.

Smith, Alyn. (2010). MEP and Member of the Group of the Greens/European Free Alliance.

Tabajdi, Csaba Sándor. (2012). MEP and Member of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament.

Tarand, Indrek. (2011). MEP and Member of the EU-Iceland JPC.

Tiido, Anna. (2011). Estonian Permanent Representation to the EU.

Vajgl, Ivo. (2010). MEP and Member of the Bureau for the Group of the Alliance of Liberals and Democrats for Europe.

Vaughan, Derek. (2010). MEP and Member of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament.

Veld, Sophie in 't. (2012). MEP and Vice-Chair Committee on Civil Liberties, Justice and Home Affairs for the Group of the Alliance of Liberals and Democrats for Europe.

Vigenin, Kristian. (2011). MEP and Vice-Chair of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament.

Weber, Manfred. (2012). MEP and Vice-Chair of the European People's Party.

Wynn, Terry. (2010). Former MEP and Committee on Budgets rapporteur for the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament.

Zijlstra, Auke. (2012). MEP and Non-attached Member.

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Bendixen, H. (Henrik.BENDIXEN@eeas.europa.eu) (3<sup>rd</sup> October 2011). Query regarding the Delegation of the European Union to Iceland. E-mail to (peter.connor@durham.ac.uk).

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