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EUI Working Paper **EPU** No. 92/13

The European Parliament in European Community Environmental Policy

HENNING A. ARP

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European University Institute, Florence

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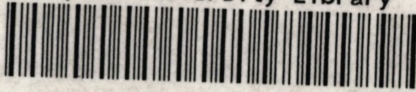
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The European Parliament in European Community Environmental Policy

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This paper has benefitted from the support of the European Parliament's General Secretariat. I am much indebted to the Secretariat's officials and the Members of Parliament and their assistants who answered my questions. A first draft of this paper benefitted from comments by Dr Kraus and Mr Weigel in Parliament's General Secretariat as well as by Markus Jachtenfuchs, Professor Giandomenico Majone and Professor Roger Morgan.

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© Henning A. Arp
Printed in Italy in January 1992
European University Institute
Badia Fiesolana
I–50016 San Domenico (FI)
Italy

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Introduction

The role of the European Parliament in the environmental policy of the European Community (EC), and more specifically the question what impact the European Parliament had on policy-making in this field has been studied before. The observers' judgements ranged between outrightly affirming Parliament's positive influence in promoting the Community's policy on the environment on the one hand, and considering its limits on the other.

Gründling (1989), for instance, ascribes to Parliament the function of a motor for environmental policy. Prima facie, this assessment seems justified in view of the impressive number of environment-related reports, resolutions and written and oral questions addressed to the Commission and the Council of Ministers. The environmental and the social dimensions of European integration are certainly given particular attention by the House (Schmuck 1990: 69). Other authors, while not questioning the assembly's political will and efforts, nevertheless point to the legal constraints under which Parliament operates. Moreover, the obvious disregard of its proposals by the Commission and the Council is stressed. Thus, Hannequart (1979) mentions the early initiatives of Parliament in the field of the environment. He points to the involvement of the European Parliament in deciding on the general orientation of Community environmental policy, in giving its opinion on individual pieces of legislation and in using written and oral questions as instruments of expression and control. However, its actual influence was limited due to the non-binding nature of its opinions.

At the end of the 1970s, it was nevertheless expected that the legitimacy which Parliament would gain through its being directly elected since 1979 would make it more difficult for the Commission and the Council to disregard its will. Another step forward was certainly made by the Single European Act in 1987 which increased the leverage of the European Parliament also in certain environmental matters. The new cooperation procedure entails more participation rights for Parliament in environmental legislation related to the completion of the internal

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market. Yet, the Council's frequent disregard of what Parliament says led Member of Parliament (MEP) François Roelants du Vivier to talk of a refusal of democracy even after the Single Act (Roelants du Vivier 1988: 37).

Parliament itself obviously tries to present itself as the spokesman for environmental concerns. In brochures on the occasion of the European Environment Year 1987, it claimed to be a driving force for environmental protection in Europe (Europäisches Parlament 1987a, 1987b). Ken Collins, at present the chairman of Parliament's environment committee, asserts that the European Parliament is by no means "a toothless institution" (Collins 1990: 276). More detailed studies of Parliament's secretariat convey a differentiated picture of both failures and successes (cf. European Parliament 1984, 1987, 1988a, 1988b). In sum, the existing documentation and literature draw a picture of some notable successes, piecemeal influence and many cases of manifest contempt of Parliament's opinions and initiatives by the Commission and the Council.

The purpose of this paper is to add some empirical findings to the existing body of work (Part A). Furthermore, the subject is approached from a new angle insofar as Parliament's internal workings related to environmental policy is concerned (Part B). As the question of institutional reform with a view to the creation of a European Union is on the agenda, it may be worthwhile to draw up a balance sheet of Parliament's past performance and to look at problems which the House experiences in contributing to the development of EC environmental policy. Such an analysis may help in answering the question if an extension of Parliament's powers would be desirable from an environmental point of view.

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Part A - The role of the European Parliament within the institutional system of the European Community

Every political system has its own definition of roles and powers and their distribution between the different institutions. Indeed, these definitions are a fundamental part of each national constitution. In the case of the EC, it is the Treaties setting up the European Community that fulfil the same function. Besides the Treaty base, however, certain mechanisms and procedures have developed over time which influence the workings of the Community system. An assessment of the role that the European Parliament plays in Community politics can therefore rely not solely on a reading of the relevant legal provisions but must also look at other channels through which Parliament gets involved in the political process.

Beyond the institutional particularities of each political system, several main functions can be identified which are assumed by parliaments in the polities of Western European countries. According to Klaus von Beyme (1975; quoted in European Parliament 1989a: 13f), the following six principal functions of parliaments can be distinguished:

- The representation and articulation function;
- the communication function;
- the controlling function;
- the function of participation in the appointment and dismissal of the executive;
- the legislative function;
- the recruiting function.

An analysis of the European Parliament's role in the political process can be usefully structured according to a functionalist approach along von Beyme's conceptualization. A closer look, however, reveals that not all functions listed above fully apply to the European Parliament. Firstly, while the European Parliament can dismiss the Commission (Art. 144 EEC), it does not elect it. Rather, the Commission is appointed by the member states' governments. Besides, the Council of Ministers by its very nature cannot be dismissed by Parliament. Secondly, and

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related to the first point, Parliament's function as a pool for recruiting political leaders is limited. While there are individual cases in which Commissioners, members of the Council and high-ranking EC officials gained experience in Community politics in the European Parliament, the decisive steps in an "EC career" are on the national level. The partial non-applicability of the appointment/dismissal and the recruiting functions to the European Parliament highlights the specific position of this assembly as compared to its national counterparts.

Leaving aside also the role of Parliament as a communication link between government and the public, which is of less interest when considering the policy-making process, I will in the following analyse the role of Parliament according to the three remaining functions: the representation and articulation function, the controlling function and the legislative function. In view of the nature of the European Community as "a state in the making", another function must be added, and that is the role that Parliament plays in enlarging the scope of Community responsibility and forming its institutional framework. While the legislative function will be discussed in some depth, the study of the other three functions will be more cursory.

1. The European Parliament articulating environmental concerns

According to opinion polls, the deterioration of our natural environment has become one of the main causes of concern in Western Europe. In 1986, 72 per cent of Community citizens perceived environmental protection as an urgent problem. Many were unsatisfied with the effectiveness of action taken by public authorities in this field (Europäisches Parlament 1987a: 11-15). Putting these concerns on the political agenda is all the more an important task for the European Parliament as according to the Eurobarometer opinion poll conducted in the spring of 1989 there is strong support for the Community member states laying down common rules for the protection of the environment (Eurobarometer No. 31, June 1989, p. 25). On the other hand, the impression which European citizens have of the European

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Parliament is not wholly positive. Only two out of three respondents felt that Parliament is important or very important in EC politics in general, and this number declines the more knowledgeable people are about Parliament (Eurobarometer No. 31, June 1989, pp. 49f).

One main, albeit indirect way in which the European Parliament can articulate the concerns of European citizens is to submit questions to the Commission and the Council which will be answered in written or oral form. Art. 140 EEC provides for questions to the Commission. Parliament's Rules of Procedure also provide for the possibility of questions to the Council and the Foreign Ministers meeting in European Political Cooperation.[1] The number of questions asked has increased strongly over time (Grabitz et al. 1988: 448-451).

Obviously, questions to the Commission and the Council can pursue very different purposes. One intention, which will be dealt with in the next section, is to check how the other two Community organs responded to Parliament's initiatives and legislative opinions. Another category of questions solicit information on topical issues of general interest, or specific policy matters in Community affairs. Thirdly, and relevant to the present context, questions may be motivated by discussions and concerns in individual MEPs' constituencies. The local press may pick up a topic, or citizens may approach their MEP on some issue. The MEP is then called on to respond to these initiatives. Conversely, the Member himself may take up a matter which potentially appeals to his electorate. Asking a question in the European Parliament can thus be one way for an MEP to get involved in the interest of his or her constituency.

Take the following question as a particularly clear example.[2] In 1984, the Dutch Socialist Hemmo Muntingh and the German Socialist Klaus Hänsch joined forces to ask the Commission about increasing damage to forests in the border region of Viersen in the German "Land" of Northrhine-Westfalia. This damage was allegedly caused mainly by emissions from a power station on the Dutch side of the border.

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[1] See Rules of Procedure (5th edition), Rules 58 - 62.

[2] Written Question No 221/84 (OJ No C 262, 1.10.84, p. 8).

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The two MEPs requested additional information on the extent of air pollution in the area. Moreover, the Commission was asked what it "can and will (...) do to safeguard the interests of the population in the border region", and if it sees a possibility to intervene with a view to reducing emissions in this particular case. These latter two questions clearly reflect concerns among the people in the Viersen area. It should be noted that MEP Klaus Hänsch is from Düsseldorf only some 25 km away from Viersen. MEP Muntingh lives far away from the Viersen area but is actively involved in environmental matters in general.

While it is not possible here to provide an assessment of the extent to which questions are asked by Members of the European Parliament with a view to articulating environmental concerns, at least some numbers on environment-related questions in general can be given. Take the written questions of MEPs to the Commission on environmental issues[3] which are published in the EC's Official Journals from January to April 1988. Those about 150 questions represent approximately a tenth out of the total of 1464 questions. This is a considerable proportion which can serve as a first indication of the importance attributed to environmental matters by the European Parliament. A second observation regards the distribution of the 150 questions amongst different MEPs. The questions have been asked by 55 Members. Their distribution amongst those MEPs, however, is all but equal. 43 questions were asked by François Roelants du Vivier, a Green MEP from Belgium, alone. Another 36 questions were asked by three other MEPs, two more Green MEPs from Belgium and the abovementioned Dutch Socialist Muntingh. Many other MEPs asked between one and four questions. Astonishingly, members of the environment committee are not strongly represented among those who posed questions. Indeed, only two out of the "top four" questioners are members of the environment committee. The observation of a broad range of questioners can tentatively be taken as an indication that many of the questions

[3] For the purpose of this analysis, environmental policy has been defined as excluding the fields of energy policy, nuclear energy, genetic engineering and public health.

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asked are posed not on the basis of the political specialization of the questioner but in response to external suggestions, for instance concerns in his or her constituency.

Some examples taken from one Offical Journal[4] reflect the wide variety of problems referred to in parliamentary questions: the creation of a Community inspectorate for the environment, the processing of waste into agricultural fertilizers, the limitation of emissions from large combustion plants, the transport of dangerous substances on internal waterways, the ecological implications of the Greater Carajas Programme in Brazil and the slaughter of migrant birds were all taken up by MEPs.

A second means of putting environmental concerns onto the political agenda are Parliament's own-initiative reports and resolutions. Parliament has the right to pick up problems it considers important, to prepare reports on them and to pass resolutions outside the legislative process.[5] These reports are sometimes substantial studies of the issue involved. Between June 1984 and April 1989, Parliament adopted 55 own-initiative reports in the field of the environment (Kraus 1989). A recent publication by Parliament's secretariat covering the time period between 1984 and the beginning of 1988 documented 11 reports concerning the protection of wild fauna and flora alone (European Parliament 1989b). Eight of these reports had been written by MEP Muntingh.

Own-initiative resolutions in general urge the European Community for action in some field and make respective proposals. An often-quoted example of where a Parliament initiative did instigate Community action is the ban on the import of skins from certain baby seals and derived products. Following an initiative by Parliament, and against the background of public pressure, a Council directive was passed in February 1983, and later extended (European Parliament 1984: 36f; 1989c: III/N/6). In some of its resolutions, the European Parliament explicitly refers to growing public awareness of environmental matters.[6] Recent own-initiative

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[4] OJ No C 112, 28.4.88.

[5] See Rules of Procedure (5th edition), Rules 63, 64, 118, 121.

[6] See, e.g., Parliament's resolutions of 18.2.86 on the European Environment Year 1987 (OJ No C 68, 24.3.86, p. 49) and of 10.3.88 on the implementation of European Community legislation relating to water (OJ No C 94, 11.4.88, p. 155).

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reports include four reports on environmental problems in tropical forests, in particular in the Amazon region and relating to Community financed projects there[7], a report on the environment in urban areas[8], two reports on the protection of brown bears and wolves respectively[9], a report on the consequences of a rapid rise in the sea level[10], and a report on tourism and the environment[11].

As far as the effect of own-initiative resolutions on Community policy is concerned, no comprehensive data are available. Pursuant to an agreement with Parliament in 1983, the Commission regularly publishes "Reports on Action taken by the Commission in Response to Parliament's Own-initiative Resolutions".[12] The picture that emerges from the chapter on the environment and civil protection of the 1989 annual report is that the Commission did take action on the problems taken up in Parliament's resolutions. To what extent these actions correspond to Parliament's wishes remains unclear, however. Besides, the Commission may have become active regardless of Parliament's resolution. Finally, comparable follow-up reports by the Council do not exist.

In sum, the European Parliament sees itself as the spokesman for the environment-related concerns of European citizens. It clearly makes an effort to put these concerns on the agenda by asking questions to the Commission and the Council, by looking into environmental problems in its own-initiative reports and by urging the EC for action by means of its own-initiative resolutions. This articulation function is a crucial element in Parliament's role in EC environmental policy.

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[7] Doc A2-124/89, 27.4.89; Doc A 3-181/90 and Doc A3-182/90, 5.7.90; Doc A3-231/90, 26.9.90 (by the Committee on Development and Cooperation).

[8] Doc A2-294/88, 5.12.88.

[9] Doc A2-339/88, 6.1.89; Doc A2-377/88, 31.1.89.

[10] Doc A2-87/89, 19.4.89.

[11] Doc A3-120/90, 6.6.90.

[12] See, e.g., the annual report for 1989 (SP(90) 620 final, 22.6.90).

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2. The European Parliament controlling the Commission and the Council of Ministers

A second important function of parliaments in Western democracies is the political control of the executive. In the case of the European Community, this control has to be exercised both over the Commission and the Council of Ministers. Moreover, as Community law is implemented mainly by the member states, Parliament's work extends also to the national level.

One instrument by which Parliament fulfils its control function has been dealt with in a different context already in the last section. Questions by MEPs to the Commission and the Council do not only serve the articulation of environmental concerns. They can also serve to check the action (or non-action) of these two organs on individual environment-related problems. By asking a question, an MEP can press the Commission and the Council to take a position on the subject raised. Even if at least the Council is not even obliged by the Treaties to reply to MEPs' questions, and even if an answer given is evasive or little informative, as is often the case, a question can signal parliamentary awareness and serve as the starting point for further parliamentary involvement. Posing questions thus is an indirect instrument of control. Besides, as the implementation of EC environmental law by national authorities is often wanting, questions may point to failures in this regard. Indeed, "parliamentary questions are more and more often used by the European Parliament as an indirect means to initiate proceedings for a Member State's failure to comply with its obligations." (JUSletter Bulletin 6/89: 30)

Consider, for example, the written question No 2245/87 by MEP Muntingh.[13] This question followed the publication in the French official journal of a supplement to the list of birds which are allowed to be hunted. However, eight of the birds included were protected by the Community's Wild Birds Directive. As the Member pointed out, France had recently been condemned for not complying with this directive by the EC Court of Justice. This new violation showed again the

[13] OJ No C 317, 12.12.88, p. 15.

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French "intention of continuing to disregard that directive." The Commission was therefore asked what it planned to do in order to prevent the hunting of the bird species concerned. In a suggestive way the Commission was also asked if it would "use its contacts with hunters' organizations to urge the latter to play a more active part in combatting practices that come into conflict with the EEC Wild Birds Directive." The reply to the question by Commissioner Clinton Davis showed that the Commission was still in the process of considering the steps to be taken in this matter. The Commission's probe apparently was not initiated by MEP Muntingh's question, however. If a particular question has a political impact or not is obviously open. Nevertheless, at least potentially, parliamentary questions are a powerful instrument of instigating the enforcement of Community law.

The incorporation of EC directives into national law, and even more so their actual implementation by national authorities and their efficacy are crucial problems in Community environmental policy. In the last few years, awareness within the Community institutions about these problems has increased, and the implementation gap has become a political issue in itself. Besides with using its right to ask questions, the European Parliament has become active in this field in several ways.

Firstly, many directives in the field of environmental regulation contain explicit provisions for the control of their implementation by the member states. These provisions include reports of the member states to the Commission on the implementation of the respective directive, the publication of these reports by the Commission as well as reports of the Commission to the Council. Some directives directly involve the European Parliament. The 1978 directive on waste from the titanium dioxide industry, for instance, stipulates that the "Commission shall report every three years to the Council <u>and the European Parliament</u> on the application of this directive."[14]

[14] OJ No L 54, 25.2.78, p. 19; for another example see the 1985 directive on environmental impact assessment (OJ No L 175, 5.7.85, p. 40).

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In a more systematic fashion, the Commission since 1984 publishes annual reports to Parliament on the implementation of EC law and its own monitoring efforts.[15] These reports had been demanded by Parliament in a resolution in 1983 in a move to increase its role in overseeing the application of Community law in general.[16] They give detailed information on infringements of Community law by the member states, of Commission efforts to enforce compliance with Community law and of legal proceedings against member states. In its 1989 report, the Commission explicitly acknowledged the role of the House in helping in the monitoring of EC law by parliamentary questions and petitions. Although these reports certainly represent a step forward in strengthening Parliament's controlling function, MEPs have not been satisfied with the information given to them by the Commission. The assembly indeed requested that the Commission's reports contain more detailed information.[17] Moreover, the Commission was asked to forward to Parliament on a regular basis member states' compliance letters, which notify the Commission of the transposition of a directive into national law.[18] According to the House, infringement procedures against member states for the violation of EC environmental law should be made more public. Parliament also encouraged the EC citizens to participate in the monitoring of the implementation of EC law by filing petitions to Parliament in cases of non-application of Community law.[19] Regarding citizens' complaints made to the Commission, Parliament requested the Commission "to let the European Parliament examine the complaints which have been received if it so requests". These different proposals reflect Parliament's concern about the implementation gap in EC environmental regulation, and its attempt to increase its own capacities in this area.

The European Parliament has not waited for information to be provided by the Commission, however. It has undertaken its own studies into the implementation

[15] See, e.g., the annual report for 1989 (COM(90) 288 final, 22.5.90).
[16] OJ No C 68, 14.3.83, p. 32.
[17] OJ No C 343, 31.12.85, p. 8; cf also OJ No C 68, 19.3.90, p 183.
[18] OJ No C 94, 11.4.88, p. 155.
[19] OJ No C 94, 11.4.88, p. 151.

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problem in the form of own-initiative reports. A highlight is the environment committee's report on the implementation of EC water legislation by MEP Ken Collins.[20] At the heart of this report are case studies on the implementation of three directives relating to the quality of water which show member states' failures in the incorporation of EC law into national law and in the actual implementation of Community law. Most cases referred to in the report are taken from Britain, the rapporteur's home country. The case study approach is employed also in the Alber report on the incorporation into national law of Community directives on the improvement of the quality of the air.[21]

An important instrument which the European Parliament has given itself in its Rules of Procedure are committees of inquiry set up "to investigate alleged contraventions of Community law or instances of maladministration with respect to Community responsibilities."[22] Committees of inquiry are a means of focussing Parliament's attention as well as media attention on spectacular breaches of EC law or urgent problems to be tackled by the Community. In the field of environmental policy, the House has set up two committees of inquiry so far. In 1983, the first committee of inquiry ever in the European Parliament's history was established to probe into the disappearance of several barrels of toxic waste from the Seveso plant. The resolution which Parliament passed on the basis of the resulting report stated a breach of the 1978 directive on toxic and dangerous waste and criticized the Commission for not adequately fulfilling its role as the guardian of the Treaties.[23] Another committee of inquiry was set up following the scandal around the movement of nuclear materials between Germany and Belgium and related illegal financial transactions. This committee did not find any violation of EC law but recommended an extension of Community competences in this area and a tightening of state control in general.[24]

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[20] Doc A2-298/87, 14.2.88.
[21] Doc A2-315/87, 26.2.88.
[22] See Rules of Procedure (5th edition), Rule 109(3).
[23] OJ No C 127, 14.5.84, p. 67; Weber (1984: 67-69).
[24] Doc A2-120/88, 24.6.88.

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Besides its involvement in controlling the implementation of EC environmental legislation, the European Parliament obviously has a strong interest in following up on the response of the Commission and the Council to its own-initiative and legislative resolutions. This follow-up is a test of Parliament's efficacy in influencing Community action, and a basis for improving its efficacy by follow-up action.[25] The "Reports on Action taken by the Commission in Response to Parliament's Own-Initiative Resolutions" have already been mentioned in the previous section. They are published by the Commission and specify the steps which the Commission has taken on the issues brought up by Parliament. For the follow-up on Parliament's legislative opinions, a special question time is scheduled regularly in each part-session on Wednesday evenings. During this question time, one Commissioner answers the MEPs' questions concerning Commission action on Parliament's legislative opinions which had been given during the two previous sessions. On the day preceding the question time, MEPs have received a written communication by the Commission on this subject.[26]

On a more technical level, Parliament has provided itself with a special service to follow up on the consideration of parliamentary opinions by the Commission and the Council. This service is part of Parliament's secretariat. By keeping up-to-date the respective database and sending reminders to the different Parliament offices concerned about steps to be taken to ensure an appropriate response by the Commission and the Council, the follow-up service helps the House to keep track of pending legislative acts. Moreover, it produces statistics on the number of parliamentary amendments adopted by the Commission and the Council. As a rule, it is expected that the rapporteur or the secretariat of the responsible committee observe the further treatment of a legislative matter by the Commission and the Council as they are most knowledgeable about it. However, this rarely works in a satisfactory manner.

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[25] See Rules of Procedure (5th edition), Rules 41 - 43.

[26] Published in the European Parliament's Verbatim report of proceedings.

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The will of the House to strengthen its monitoring capacities across all policy areas became clear when it announced the setting-up of a separate monitoring committee in 1988.[27] This committee was to both follow up on Parliament's opinions and resolutions by the Commission and the Council, and scrutinize the implementation of EC law. Up to now, such a committee has not been established. This may be due to the understanding that highly policy-specific implementation problems cannot adequately be dealt with by a cross-section committee.

Finally, the European Parliament has the right to censure the Commission en bloc (Art. 144 EEC), a power which constitutes the ultimate means of control. On a more practical level, the

> MEPs' power to "control" the EC's decision-making bodies has grown haphazardly, largely as a result of MEPs' efforts to exploit the EP's own procedures and to interpret the Rome Treaty's provisions expansively. (Lodge 1982: 273)

Ensuring the accountability of the executive to parliamentary wishes is the essence of the parliamentary control function that the European Parliament shares with its national counterparts. In the framework of its documentation efforts, Parliament's Directorate General for Research has published individual studies on the response of the Commission and the Council to Parliament's resolutions.[28] These reports draw a mixed picture of parliamentary successes and failures in influencing the course of Community affairs. In addition to that, the European Parliament is involved also in the surveillance of the implementation of Community law at the national level. As the environment has no natural advocate, and as it is an environmentalist lobby, specialized government agencies and the public at large which have to act on its behalf, the monitoring function of the European Parliament in the area of environmental policy is particularly important.

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[27] OJ No C 94, 11.4.88, p. 151.

[28] There are reports on the "Achievement of the Internal Market: Action Taken by the Commission and Council on Parliament's Opinions" (Action Taken Series no. 1-I./04-1987; no. 1-II./05-1988), reports on "The Impact of the European Parliament on Community Policies" (Political Series no. 5/1984; Action Taken Series no. 3/1988), and one report on "Action taken on Parliament's Own-Initiative Resolutions (July 1984 - December 1986)" (Action Taken Series no. 22-I/09-1987). More recent studies are not available.

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3. The European Parliament participating in EC environmental legislation

The participation of a parliament in legislation is probably the function of which people think first. In Montesquieu's ideal type "separation of powers" model, it is the parliament which makes the laws, government which executes them and the judiciary which controls their application. The Community institutional system being strongly technocratic and intergovernmental in its character, the legislative powers of the European Parliament are, however, clearly limited. The critique of the "democratic deficit" of the EC refers to this fact.

In this chapter, first the role of the European Parliament in the legislative process will be described in general terms. Following that, three case studies on individual pieces of legislation will be presented for the purpose of illustration.

3.1. The legislative procedures

The part of the European Parliament in the legislative process of the Community is governed by two procedures that apply to different sets of legislative acts.

The European Parliament's role in most Community legislation is governed by the consultation procedure which basically limits Parliament to an advisory function. The consultation procedure also applies to the new Treaty chapter on the environment (Arts 130r - 130t EEC) which has been introduced by the Single Act in 1987. Within the consultation procedure, the European Parliament gives its opinion on the Commission's draft legislative proposal, and the Council can make a decision on this proposal only after having obtained Parliament's opinion. Yet, the Council need not heed Parliament's opinion, and mostly indeed does not. However, as the Commission is free to alter its original proposal at any time as long as the Council has not acted (Art. 149, par. 3 EEC), the Commission may take up Parliament's suggestions and incorporate them into its own proposal.

A second legislative procedure was introduced by the Single Act. The new cooperation procedure, which involves the Commission, the European Parliament and the Council of Ministers and is laid down in Art. 149 EEC, provides for an

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enlarged possibility of qualified majority voting in the Council and a strengthening of the position of the European Parliament vis-à-vis the other institutions. The cooperation procedure applies mainly to legislation related to the completion of the internal market.

The European Parliament is involved in the cooperation procedure in two readings. In the first reading, Parliament gives its opinion on the Commission draft proposal. This opinion mostly contains proposals for amendments to the Commission proposal. After having obtained Parliament's opinion, the Council adopts a common position on the Commission draft proposal. This common position is the object of Parliament's second reading. If Parliament agrees to the common position, the Council adopts the legislative act in accordance with the common position. If Parliament rejects the common position, the Council may pass the law only by a unanimous vote. This provision thus enables Parliament to block legislation if the Council is split on the matter. The possibility to reject a common position is a powerful weapon for Parliament. However, only in those cases in which a deal is struck between the House, the Commission and possibly the Council against the background of Parliament's threat to reject the common position does it represent an avenue for the inclusion of the House's wishes into the legislative act and go beyond a pure veto power.

A more intricate process is opened up if Parliament proposes amendments to the common position. These amendments have first to be considered by the Commission which may either accept or reject them. If the Commission accepts (some or all) parliamentary amendments it sends a so-called "re-examined proposal" to the Council. The Council can then by a unanimity vote adopt parliamentary amendments which have not been accepted by the Commission. More importantly in practice, the re-examined proposal from the Commission, which includes Parliament's amendments, only needs a qualified majority in the Council to pass. In order to change the re-examined proposal from the Commission, however, the Council has to act with unanimity. This means that the European Parliament in alliance with the Commission can push through its amendments if the Council is

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internally divided.[29] The cooperation procedure therefore has at least the potential for strengthening Parliament's influence in the legislative process, especially when Parliament succeeds in convincing the Commission of its position.

In practical terms, two additional procedural requirements for the cooperation procedure are important for the internal workings of Parliament. First, in order to reject or amend the Council's common position Parliament has to vote with the absolute majority of its component members. At present this means that at least 260 of the 518 MEPs have to vote for the rejection or amendment for it to be valid. As the attendance of Parliament's plenary sessions is often wanting, this provision necessitates a special effort by Parliament to ensure sufficient attendance in those sessions in which votes on common positions are on the agenda. Moreover, the absolute majority provision forces Parliament to form issue-oriented coalitions across party lines for the rejection or amendment of common positions as no single party group commands 260 votes by itself. For this purpose, the European People's Party and the Socialists as the two biggest party groups in Parliament hold a coordination meeting on Tuesday of each part-session before votes on common positions take place. In these meetings, a common line can often be agreed upon.

Parliament has adopted yet another rule concerning the cooperation procedure. In its Rules of Procedure, Parliament has laid down that amendments in the second reading, i.e. concerning the common position, may only either aim at restoring a position adopted by Parliament in the first reading, or seek to propose a compromise between the Council and Parliament, or refer to a new provision in the draft proposal which had been included after the first reading.[30] These restrictions imply that substantive amendments may only be tabled in the first reading. The second reading only serves to respond to changes in the legislative proposal as submitted in the form of the Council's common position, to propose compromise solutions, and to insist on Parliament's position as voiced in the first reading. It is therefore in the first reading that Parliament develops and puts forward its opinion.

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[29] The division in the Council obviously has to be such that still a qualified majority is in favour of the re-examined Commission proposal.

[30] See Rules of Procedure (5th edition), Rule 51.

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As mentioned above, the consultation procedure with its restricted scope for parliamentary influence applies to environmental policy in general.[31] However, much environmental legislation is related to the completion of the internal market and is therefore dealt with under the cooperation procedure which concedes more power to the European Parliament. The so-called Delors-List, in fact, which specified the legislation the legal basis of which would be changed by the Single Act according to the Commission's point of view, included a substantial part of environmental legislation under the provisions of Arts 100a/149 EEC (Roelants du Vivier/Hannequart 1988: 229-231). Arguably, environmental legislation related to the internal market programme is even more important than environmental legislation coming under the consultation procedure as it directly affects the competition conditions between the member states and the freedom of trade. Both its economic and its environmental ramifications are often bigger. This means that even now many significant pieces of EC environmental legislation are decided under the cooperation procedure giving the European Parliament more influence in the policy-making process.

An important question is exactly which pieces of environmental legislation are to be decided according to Art. 130s EEC under the consultation procedure, and which on the basis of Art. 100a EEC within the cooperation procedure. In practice, the Commission when tabling a proposal decides on which legal basis it is to be processed. While in general the European Parliament has accepted the Commission's choice of a legal basis, Parliament's Graziani Report on the results obtained from the Single Act pointed to the arbitrary character of those decisions particularly in the field of environmental legislation (and social rights).[32] At the moment, there are two cases pending at the EC Court of Justice regarding the

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[31] Interestingly, according to Art. 130s EEC, the Council may decide from case to case that a decision is taken by qualified majority also in environmental policy not related to the completion of the internal market. As Lietzmann (1988: 179-181) notes, however, a certain inconsistency lies in the fact that in these cases Parliament does not enjoy enlarged rights of participation under the cooperation procedure. In other Treaty provisions, Council decisions to be taken with qualified majority are linked to the application of the cooperation procedure.

[32] Doc A2-176/88, 26.9.88, pp. 14f.

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appropriateness of the legal basis for specific legislative proposals in the environmental policy field. In the first one, the European Parliament has gone to the Court against the Council for the latter having based its Regulation No 3954/87 on radioactivity in foodstuffs and feedingstuffs on Art. 31 EAEC instead of Art. 100a EEC as preferred by Parliament. The Commission had refused to choose Art. 100a EEC as the legal basis. In the other case, concerning Directive 89/428/EEC on waste from the titaniumdioxyde industry, it is the Commission which has sued the Council for basing the directive on Art. 130s EEC instead of Art. 100a EEC, and by doing so disregarding Parliament's rights of participation in the legislative procedure.

As a general rule, Parliament wants the cooperation procedure to be extended to other policy areas beyond internal market legislation, and the environmental area would be an obvious candidate. Environment-related legislation already makes up for nearly a tenth (18 out of 193) of all cooperation procedures. Between July 1987 and August 1990, 12 environment-related cooperation procedures have been completed, and an additional 6 have been started. This number compares to 57 consultation procedures for the period from July 1987 to March 1991. Parliament has nearly always worked to use its potential influence through the cooperation procedure. In all completed environment-related cooperation procedures up to August 1990, the European Parliament has in at least one of the two readings proposed amendments to the Commission proposal or the Council's common position.[33] Indeed, this observation confirms a trend which has characterized the environment-related consultation procedures over several years. Also with legislation subject to the consultation procedure the opinions proposing amendments to the Commission proposal outnumbered the opinions which did not do so. Both observations reflect the active interest that Parliament has taken in environmental policy.

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[33] Source: EPOQUE database, own analysis. For the purpose of this analysis, environment-related legislation was defined as excluding biotechnology but including legislation on the workplace environment, and environment-related research including research on alternative energy sources.

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The first time that Parliament rejected a common position was in the case of the proposed Council directive on the protection of workers from benzene at the workplace. This directive at that time fell into the competence of Parliament's environment committee. In its session of 12 October 1988, Parliament adopted a number of amendments to the Council's common position. After the Commissioner present had stated that the Commission would not accept these amendments, Parliament, on the proposal of its rapporteur, rejected the common position with a large majority.[34] Reportedly, the Commission had previously assured Parliament of its support for Parliament's proposals. As at least one member state in the Council supported Parliament's views and a unanimity vote to overrule Parliament's rejection was thus not possible, the Commission subsequently withdrew its proposal (Kraus 1989). Parliament had thereby effectively blocked legislation that it considered inadequate and sent a powerful signal to the two other Community organs.

The question which ensues from our discussion of the legislative procedures so far, and which indeed is at the centre of this chapter, is what impact Parliament had with its amendments on the legislative process both under the consultation and under the cooperation procedure. Concerning the experience with the cooperation procedure in general - i.e. not limited to the field of environmental policy -, the Graziani Report of Parliament's institutional affairs committee, one year after the entering into force of the Single Act, drew up a mixed assessment.[35] As to the first reading, the report stated that

> (w)hile Parliament has some reason to be satisfied at the Commission's acceptance of its amendments, it cannot congratulate itself on their success with the Council. (...) only some 40% of Parliament's amendments are incorporated in the Council's common positions. (p. 16)

As to the second stage of the cooperation procedure,

> Parliament held 33 second readings and approved 18 common positions without amendment. No common positions have yet been rejected. In 15 cases it proposed amendments. However, less than a quarter of these amendments were

[34] OJ No C 290, 14.11.88, pp. 36, 64.

[35] Doc A2-176/88, 26.9.88.

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> included in the texts adopted by the Council. The Commission for its part accepted just over half of the amendments proposed by Parliament at its second reading. (p. 17)

Thus, despite some inroads which have been made "the overall results leave much to be desired." (p. 17) Since 1988, the number of parliamentary amendments adopted by the Commission and the Council has not changed markedly.[36]

A corresponding analysis for the working of the cooperation procedure specifically in environmental policy and up to the present date has not been possible within the scope of this paper. It should also be recalled that the major part of EC environmental policy is still subject to the consultation procedure, and that pure numbers of amendments adopted by the Commission and the Council are not conclusive in that the substance of the amendments has to be taken into account. Only case studies can reveal the true impact of the European Parliament on legislation.

Finally, a third form of interaction between the Commission, the Council and Parliament besides the consultation and the cooperation procedures is worth mentioning. Based on an inter-institutional agreement of 1975, the conciliation procedure allows a mediation between the Council and Parliament (with the participation of the Commission) in the case of disagreements about pieces of non-mandatory legislation with important financial implications. Parliament has been eager to reform this procedure, and in particular to extend it to all important legislative acts regardless of their financial implications.[37] It has provided for this unilaterally in its Rules of Procedure.[38] Such an extension, however, has been refused by the Council so far. Despite this refusal in principle, direct contacts between Parliament and the Council do take place. Shortly after a move within the Council to use the conciliation procedure more flexibly, which, however, had been vetoed by Denmark, the European Parliament in December 1984 for the first time

[36] See XXIIIrd General Report on the Activities of the European Communities 1989, p. 31; XXIVth General Report on the Activities of the European Communities 1990, p. 360.

[37] See Parliament's Prag Report on the conciliation procedure (Doc A2-351/88, 11.1.89), with further references.

[38] See Rules of Procedure (5th edition), Rule 43.

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initiated a conciliation procedure according to its own Rules of Procedure.[39] This initiative concerned draft legislation on the lead content of petrol and motor vehicle emissions. While the Council declined a formal conciliation procedure because the conditions of the 1975 agreement were not met, a meeting between a parliamentary delegation and the acting president of the Environment Council took place on 6 March 1985. Although Parliament remained unsatisfied with the outcome of this meeting, it was important in so far as it showed a certain flexibility in the practice of direct talks between Council and Parliament. Moreover, for several years, there have been regular informal meetings between the presidents of the European Parliament, the Commission and the Council.

It was said in the introduction that the European Parliament wants to be seen as a spokesman for environmental concerns. In a negative vein, the criticism is frequently heard that the European Parliament is a mere talking-shop which has not to be taken seriously. The interaction between the limited powers of Parliament which prevent it from exercising more leverage, and the danger of acquiring a reputation of being an ineffective body the powers of which should better not be enlarged, potentially is a vicious circle for the European Parliament (Lodge 1982: 262). The following case studies will look at how Parliament used its limited powers to enhance the goal of environmental protection in the EC. As a general rule, which will be illustrated by the case studies, the House in its legislative work critically accompanies the policy-making of the Commission and the Council and proposes more radically "green" solutions. As may be expected, however, these proposals are mostly not adopted by the Commission and the Council.

3.2. Case studies on the participation of Parliament in the legislative process

Before presenting the three case studies on the role played by the European Parliament in environmental legislation, a methodological caveat must be entered. The analyst who aims at going beyond the mere description of Parliament's actions

[39] OJ No C 12, 14.1.85, p. 65.

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to "measure" the impact of these actions in the policy-making process will encounter severe problems. In general, a single direct causal influence cannot be assumed. The decisions of the Commission and the Council of Ministers are determined by a host of different considerations among which Parliament's opinion is only one, and possibly a very marginal one. In the Council, the "common interest" of the EC is mostly overridden by the various national interests and the horsetrading between them. Other important factors are lobbying by individual interest groups, the general political context (e.g. media attention, up-coming elections, broader political considerations not related to the issue at stake) and international developments (e.g. negotiations on international agreements). All of these factors may further or hinder the adoption of Parliament's proposals by the Commission and the Council. Even if a proposal is adopted this may not mean that "Parliament got its way" but may only reflect that circumstances were favourable and Parliament's ideas in line with these circumstances. Only under the cooperation procedure true power accrues to the assembly under certain conditions. Thus, the influence of the European Parliament is a thing which is hard to trace, and only in-depth studies can provide answers. In such an analysis, we would have to take into account not only the actions taken by the House but also all other factors which had an effect on the decision. Only a whole series of such analyses would enable us to draw more general conclusions - if generalisation is at all possible.

Case study 1: The Large Combustion Plant Directive of 1988[40]

An example of the disregard for Parliament's proposals by the Commission and the Council is the legislative process leading to the Large Combustion Plant Directive of 1988. A detailed analysis of Parliament's Directorate General for Research on the influence of Parliament on this directive shows that only marginal parliamentary amendments have been included in the final act.[41]

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[40] Council Directive 88/609/EEC (OJ No L 336, 7.12.88, p. 1).

[41] WIP/89/03/061, 27.4.1989.

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The legislative process around the Large Combustion Plant Directive was drawn-out and characterized by strong national interests. The Commission's first proposal had been submitted in late 1983, with Parliament giving its opinion in 1984. After a modification of its draft by the Commission in 1985 and two resolutions by Parliament in 1985 and 1986, which strongly criticized both the Commission and the Council for their inaction and disregard of Parliament's proposals, and urged more stringent regulations[42], the directive was finally adopted by the Council in November 1988.

The comparison between the proposals made by Parliament and the final directive reveal that the parliamentary amendments accepted by the Council either referred to definitions or went in the way of some member states by allowing them to impose shorter deadlines of compliance. These changes are thus all but substantial. In fact, none of Parliament's demands concerning obligatory shorter deadlines, an extension of emission norms to other categories of plants and stricter conditions for exemptions from the provisions laid down in the directive were adopted. It was these demands, however, which would have increased the level of environmental protection and would have imposed additional efforts on the member states and their industries. In purely quantitative terms, out of the 22 amendments proposed by Parliament eight were adopted by the Commission. These eight amendments were those which were less important. Out of these eight amendments supported by the Commission three were included in the directive by the Council. The author of the study concludes that Parliament's influence on the Large Combustion Plant Directive was small. Even the Commission proposals, however, were only scarcely reflected in the directive. The case of the Large Combustion Plant Directive shows the predominance of intergovernmental decision-making and the exclusion of the European Parliament when important national interests are at stake.

[42] OJ No C 175, 15.7.85, p. 297; OJ No C 176, 14.7.86, p. 171.

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Case study 2: Car exhaust emission legislation - The Small Car Directive of 1989[43]

One of the most striking instances in which the Single Act changed a Community legislative process is EC legislation on emissions from motor vehicles.[44] When the Single Act entered into force in July 1987, the draft directive on emission norms for motor vehicles had been blocked for one and a half years by a Danish veto in the Council. This draft directive had been the result of tedious negotiations between the Commission and the member states which to those involved became known as the Luxemburg Compromise. The situation since the fall of 1985 reflected in an ideal type manner the stalemate in EC politics brought about by the unanimity requirement for Council decisions.

Under the Single Act, the Commission immediately acted to remove the obstacle for the passing of the directive. It re-tabled the Luxemburg Compromise on the basis of the new internal market clause Art. 100a EEC, thus opening the way for a qualified majority vote in the Council. Art. 100a EEC was appropriate in that EC car exhaust legislation primarily serves to eliminate barriers to trade for such an important commodity as are motor vehicles. As a matter of fact, it had only been since the mid-1980s that car emission control had become a major focus of environmental policy. After the Council, acting under the cooperation procedure, had formulated its common position in September 1987, and after Parliament had approved the Council's common position ten weeks later, the Council passed the directive against the votes of Denmark and Greece on 3 December 1987. Indeed, this was the first time that a directive was approved with a qualified majority under Art. 100a EEC.

The directive of 1987 stipulated that the Council even before the end of 1987 must decide on a tightening-up of emission norms for small cars (under 1400 ccm). The politics around this further legislation show the impact which the European

[43] Council Directive 89/458/EEC (OJ No L 226, 3.8.89, p. 1).
[44] This case study is based for some part on Corcelle (1989).

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Parliament can have in Community legislation under the cooperation procedure if it has the Commission on its side.

In accordance with the 1987 directive, the Commission, with some delay, in February 1988, tabled a proposal for small cars which was again based on Art. 100a EEC.[45] This proposal provided for the extension to small cars of the (stricter) 1987 norms for medium-size cars. The new Small Car Directive was thus to practically eliminate separate, more lenient norms for the category of small cars. This ran against the cornerstone of the Luxemburg Compromise which had consisted in the distinction between three different categories of cars (small, medium-size and big) with less severe norms for smaller than for bigger cars. Against the background of difficult negotiations on this matter, which were highly politicised and remained continuously on the verge of failure, the Council reached a general agreement in June 1988 and a formal common position in November 1988. The common position was adopted with a qualified majority against the opposition of Denmark, Greece and the Netherlands, and on the whole followed the February 1988 Commission proposal as far as the emission limit values were concerned. However, it stipulated that in a third step before the end of 1991 the norms for small cars would again be tightened up, and thus reflected the pressure of the more environmentalist member states on the Commission and the other member states to move into the direction of a more stringent motor vehicle emission law.

The European Parliament gave a first opinion on the Small Car Directive on 14 September 1988.[46] In this opinion, it proposed setting more stringent standards than provided for in the Commission proposal. Furthermore, Parliament called for an extension of these standards, which required the introduction of the three-way catalytic converter with electronic fuel injection as the most advanced technological solution, to all categories of cars. However, the Council's common position did not take into account Parliament's will.

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[45] COM(87)706 final, 10.2.88.

[46] OJ No C 262, 10.10.88, p. 86.

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Parliament's vote on the Council's common position was on the agenda in April 1989. In a conciliatory move towards Parliament, the Commission, some days before the session of the House, proposed to anticipate certain deadlines and make the standards obligatory (Europe Bulletin, 7.4.89, p. 5).[47] Going beyond that, Environment Commissioner Ripa di Meana, one day before the final vote in the plenary, also proposed stricter limit values than those advocated hitherto by the Commission and contained in the Council's common position. These limit values basically met Parliament's demands which it had voiced in September 1988 while allowing for some flexibility for the negotiations in the Council. In view of threats within the European Parliament that Parliament would reject the common position, Ripa di Meana urged MEPs to amend the common position in the light of his new proposals (Europe Bulletin, 13.4.89, pp. 8f).

As the House could now count on the support of the Commission, it amended the common position within the limits set by the Commission and in accordance with its proposals of September 1988 on 12 April 1989.[48] At the same time, it dropped two proposals which it had made in September 1988 but which the Commission said it could not accept. Following the vote, Commissioner Ripa di Meana expressed his satisfaction with this outcome which showed that the "Commission and the European Parliament were able to coordinate their action in order to establish the necessary conditions to reach the objectives they have in common." (Europe Bulletin, 14.4.89, p. 8) In sum, the events around Parliament's vote on the Small Car Directive showed the Commission as in the end being willing to give up its original position and support Parliament's demands. The vote in the House was taken with near-unanimity and could be seen as an uncompromising call of the European Parliament for a tougher EC environmental policy in the light of the upcoming European elections in June 1989.

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[47] Up to then, emission standards had not been mandatory. Rather, member states were allowed to permit the use of motor vehicles which did not meet the limit values (optional harmonization of standards).

[48] OJ No C 120, 16.5.89, pp. 46, 65.

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According to the cooperation procedure provisions of Art. 149 EEC, the Commission re-examined its draft directive in the light of Parliament's opinion on the common position and made it conform with Parliament's wishes. For the Council this meant that it could adopt Parliament's and the Commission's proposals with a qualified majority. For the Council to amend the proposal, however, a unanimity vote was required. After long discussions and some slight changes on the re-examined Commission proposal, the Council formally adopted the Small Car Directive with a qualified majority against the votes of Denmark and Greece on 18 July 1989. Parliament's proposals had thus found their way into the final act.

The political process leading up to the Small Car Directive of 1989 is indicative of the political dynamics which can evolve under the cooperation procedure. Moreover, Parliament itself sees this directive as a major success in pushing through more stringent environmental standards. Certainly, the final stage of the legislative process in the spring of 1989 highlights the possibility offered by an internally divided Council for joint action by Parliament and the Commission. At the same time, however, it shows how much successful Parliament action even under the cooperation procedure depends on favourable preconditions that are beyond its control.

First, as Corcelle (1989: 522) points out, the general political background has to be considered. With a view to the upcoming European elections in June 1989, Parliament wanted to present itself as a motor of EC environmental policy, and its quasi-unanimous vote on tougher emission standards in April 1989 precisely served this purpose. The Small Car Directive in that way became the test case for Parliament's environmental ambitions which might have focused also on some other issue. Nevertheless, the case was well chosen as the political situation in the Council was known and the chance for exploiting it was obvious. Moreover, it was difficult under these circumstances for the Commission (and the Council) not to go along with Parliament's wishes if it did not want to discredit both Parliament's participation in the legislative process and EC environmental policy in general. It must also be noted that some of Parliament's claims were probably more of a symbolic nature than of a real importance for effective environmental protection.

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As the three-way catalytic converter with electronic fuel injection is the most advanced technical solution to reducing car emissions, it is of little practical value to set an incrementally stricter standard although even the originally proposed standard requires the use of this technical device (Corcelle 1989: 522).

Second, it would certainly be misleading to say that Parliament forced its will on the Commission and the Council. Rather, its impact was inserted in the political context the development of which was outside of Parliament's reach.

The original Commission proposal of February 1988 was strictly opposed both by those who objected to stricter norms, led by the French car maker Peugeot, and by those to whom the Commission proposal did not go far enough in the way of environmental protection, i.e. Denmark and Greece. Other member states - West Germany, the Netherlands - were working to tighten up the Commission proposal but were willing to compromise. Against this strange coalition between proponents and opponents of strict standards the Commission had difficulties in securing even a qualified majority in the Council. In the course of 1988, this situation changed. The resistance of French and Italian car manufacturers who had up to then opposed more stringent emission norms mainly for small cars, weakened. This development released both the Commission and the Italian and the French governments from pressure working against the adoption of stricter standards. Consequently, in the Council the basis for a Commission-induced compromise became broader. As the resistance to stricter norms was now mitigated, only those member states who unconditionally wanted more stringent norms remained opposed to the Commission proposals. This group, however, did not command enough votes to block the passage of the proposed directive. For the Commission this meant that it could support Parliament as long as this did not arouse new resistance amongst the former opponents of stricter standards. As Parliament's claims did not pose this problem, the tabling of a Commission proposal along the lines of these claims became possible.

In sum, the European Parliament benefitted from a decline in resistance against relatively strict emission standards and reaped the fruits of a mature political situation. Had the Italian and the French government not given up their opposition

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to such standards, Parliament would not have been able to score this success even under the cooperation procedure and even with the support of the Commission. In this case, it would have been difficult to secure a qualified majority in the Council for any proposal.

Case study 3: The Directive on the freedom of access to information on the environment[49]

Legislation on public access to information held by public authorities is an important procedural element in environmental law. An EC directive in this area was passed by the Council in June 1990. As it is based on Article 130s EEC, the legislative process leading up to this directive offers another example of the involvement of the European Parliament within the consultation procedure. However, the history of the access to information issue in the EC goes back to before the start of the actual legislative process.

In the first place, access to information in general - i.e. not limited to the environment field - is a precondition for the performance of parliamentary functions and therefore of crucial importance to each parliament itself. In the case of the European Community, the inter-governmental character of much of EC politics stands against the openness of policy-making. Indeed, the call for more transparency in the Community system is just one aspect of the European Parliament's more general struggle for increased powers, and it has been reiterated again and again. In a resolution in 1984, the European Parliament considered "that the European Community should have its own legislation on openness of government of Community affairs".[50] Among other things, it urged the publication of explanatory declarations made in the Council together with the relevant directive or regulation as well as of the notifications of the member states to the Commission on the transposition of EC law into national law. Declarations by individual delegations in the Council on the interpretation of new legislation are said to alter the regulatory

[49] Council Directive 90/313/EEC (OJ No L 158, 23.6.90, p. 56).

[50] OJ No C 172, 2.7.84, p. 176.

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content of legislation and thus to be a form of secret legislation. The non-publication of transposition notifications, which seems hard to justify by any objective standards, hinders parliamentary and public monitoring on the implementation of Community law. Both these elements of secrecy still clearly limit the democratic nature of the Community system.

A special focus of attention is free access to information in the field of environmental pollution. An attempt to tackle this problem was made by the European Parliament in 1986/87 but ended in failure. On the basis of a motion tabled by Beate Weber and Ken Collins, at that time respectively chairwoman and vice-chairman of Parliament's environment committee, the green-alternative MEP Bram van der Lek drafted a report on "public access to environmental pollution information".[51] This report (plus an additional working document) contained a substantial study of the problems relating to public access to environment-related data and information which drew on the experience with comparable legislation in some EC member states and the US. The motion for a resolution attached to the report called on the Community to legislate on freedom of information for the working both of the EC system itself and of national public authorities. This motion, however, failed miserably in the plenary. After its cornerstones had been rejected in separate votes, and the motion thus been transformed into a nearly meaningless document, it was only the Liberals, the Group of the European Renewal and some communists who approved the motion while a large majority of socialists, christian-democrats and others voted against. In any case, only 177 members participated in the final vote at all.[52] In sum, with an obvious lack of plenary attendance and inconsistent voting behaviour Parliament forewent the opportunity to exercise well-founded leadership on the freedom of information issue. It then became a Commission's move to announce the intention to make appropriate proposals in this area in the fourth environmental action programme in 1987.[53]

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[51] Doc A 2-30/87, 13.4.87.

[52] Minutes of the sitting, OJ No C 156, 15.6.87, pp. 91f; cf. vwd 15.5.87, Europe Bulletin, 16.5.87, p 13.

[53] OJ No C 328, 7.12.87, p. 15.

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The legislative process started when in 1988 the Commission submitted a "proposal for a council directive on the freedom of access to information on the environment".[54] While not including at that stage regulations for the access to environment-related information at the level of Community institutions themselves and limiting itself to requiring the member states to adopt freedom of information legislation, this proposal corresponded in its central provisions with the suggestions contained in the 1987 van der Lek report. The proposed rules comprised the obligation of authorities to supply not only final but also (finished) internal working documents; the right of access to information to all natural or legal persons regardless of their nationality, place of residence or place of business, a regulation which is important in relation to transfrontier pollution; the limitation of charges to the actual costs of photocopying documents; the obligation of authorities to help the applicant in finding relevant documents; the possibility of administrative and judicial recourse; and the obligation of member states to publish a report on the state of the environment every three years.

In comparison with the van der Lek report the Commission proposal fell short in not extending freedom of information duties to industry. Although not in clearly specified terms, the report had implied such an obligation, and Parliament had backed up this claim in its resolution on the fourth environmental action programme.[55] More specifically, in the motion attached to the report, "the right of access to information on the environment at the workplace for organizations representing workers" had been called for.[56] The workplace environment was not included in the Commission proposal, perhaps for reasons of legislative consistency.

The main problem, however, even at first glance, was the definition of cases in which public access to information could be restricted. While it was not so much the list of such exemptions which differed between the van der Lek report and the Commission proposal (national security, potential damage to foreign relations, trade and industrial secrecy, protection of privacy, secrecy of legal procedures), it was the

[54] OJ No C 335, 30.12.88, p. 5.
[55] OJ No C 156, 15.6.87, p. 138.
[56] Doc A2-30/87, 13.4.87, p. 8.

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omitted this provision. Had it known of the Council's intention, Parliament would probably have strongly objected to this.

As far as the justification for a request for information, which could be demanded from the applicant, is concerned, a clear assessment is difficult. While the Commission put forward that the request "indicate as accurately as possible" (original proposal) / "give an accurate indication" (amended proposal) of its purpose, the European Parliament wanted the application to contain "a reasonable indication of the purpose of the request". As "reasonable" seems to be less demanding than "accurate", Parliament's formulation seems to go in the direction of a lesser need for justification on the part of the applicant. The directive in the end stipulated that a "request for information may be refused (...) where the request is manifestly unreasonable or formulated in too general a manner." All these formulations are obviously open to many interpretations. On a general level, this comparison illustrates the difficulties involved in comparing the final legislative act with the proposals made by the Commission and the European Parliament.

As to the obligation of public authorities to explain the refusal of a request for information, on the other hand, the assembly, while basically going along with the Commission's proposal, demanded an additional clause. This clause stipulated that in the case that only parts of some body of information are made public the authority must "explain" the omissions and indicate where they had been made. This clause was taken up by the Commission in relation to the indication of the omissions (not their explanation). Nothing of all that, however, can be found in the final directive.

Probably the hottest issue in each piece of legislation on the freedom of information are the conditions in which a request for information may be refused. Obviously, there are always (true or hidden) reasons for public authorities to deny citizens access to information. The problem then is how to legally define the limits within which the publication of information can be refused. The European Parliament made its most crucial demands precisely in this area.

As already noted above, the Commission's draft directive was quite generous as far as exemptions to the right of information was concerned. The respective

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regulations were vaguely formulated, and, apart from the possibility of administrative and legal recourse open to the applicant, no checks on the use of the exemption clauses were provided for. While the first van der Lek report had already agreed to the need for certain exemptions, it had also insisted on the necessity to clearly delimit their scope. The second van der Lek report put forward as guidelines, firstly, that "exceptions should be kept to a minimum, and there should always be an assessment of the relative merits of disclosure and the damage that this would cause", i.e. a cost/benefit-analysis, which would be open to scrutiny; and, secondly, that "information about discharges - into the air, into water or in the form of dumped waste - should never be subject to secrecy."[61] Both these rules became part of Parliament's legislative opinion on the draft directive, but neither of them was adopted by the Commission or the Council.[62]

Taking a general comparative look at the two (the original and the amended) Commission proposals, Parliament's legislative opinion and the final Council directive, the following picture emerges. In its general profile, the final directive corresponds to the cornerstones of a freedom of information act as outlined in the van der Lek report of 1987: Access to information is not restricted to the respective country's nationals; the applicant does not have to prove a specific personal interest in the information; even (completed) internal documents must be made public; there is a limited catalogue of reasons for which access to information may be denied; refusals of requests must be explained by the respective authority, and there must be a right of appeal; the costs of the provision of information to the applicant must remain within certain limits; and, lastly, there exists an obligation of government to actively inform its citizens about the state of the environment. These general rules are a consensus between the Commission, the European Parliament and the Council. The discussion now focuses on how exactly these general rules are to be applied, and how much leeway is to be left to the member states to regulate

[61] Doc A2-424/88, 7.3.89, pp. 11f.

[62] A more specific amendment proposal of the report which had provided for the extension of the obligation to disclose data on emissions to military installations had already been rejected in the Parliament's plenary session (see above).

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on these issues. While the European Parliament in its amendments voted for more freedom of information and advocated regulations limiting the leeway of the national legislators, the Commission and the Council clearly did not want to push freedom of information too far. Remember, however, that also within the European Parliament there was considerable opposition against "too much" freedom of information (see above).

In sum, Parliament on the whole agreed with the draft directive and tried to tighten it up on individual points.[63] The amendments proposed by Parliament related to the scope of the directive, the ease of citizens' access to information and the obligation of public authorities to explain refusals of access, and the strict limitation of conditions under which requests for information could be refused. The amended Commission proposal clearly accommodated more of Parliament's wishes than the final directive as passed by the Council.[64] However, the crucial proposals by Parliament, especially the close delimitation of exceptions in which access to information could be refused, did not find their way either into the Commission's amended proposal or the final Council directive.

Due to its limited powers, the European Parliament, unlike its national counterparts, is not in the position actually to "make" legislation. In the worst case, its role is constrained to that of an advisory body whose views are not taken heed of by the Commission and the Council. Under propitious circumstances, especially under the cooperation procedure, the House becomes a co-player in the legislative process, standing beside the two other Community organs.

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[63] Interestingly, a different stance was taken by the Economic and Social Committee in its opinion on the Commission proposal (OJ No C 139, 5.6.89, p. 47). The Economic and Social Committee questioned the need for any Community regulation on access to information on the national level in view of the subsidiarity principle. Rather, the EC should legislate on freedom of information for its own affairs as soon as possible. In its comments on individual provisions the Committee proposed clarifications as well as, to some extent, further restrictions of public access rights. However, it also suggested an improvement of active information measures.

[64] Besides the amendments discussed above, the Commission also adopted a new, generally worded recital proposed by Parliament.

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The three case studies presented above have illustrated both the limited role of the European Parliament in the legislative process and how it fulfils this role. Only in the case of the Small Car Directive could the House influence legislation more than marginally. Here, MEPs benefitted from favourable developments beyond their control. With the Large Combustion Plant Directive and the Freedom of Information Directive, Parliament's input was small. Besides, all three examples have shown that Parliament pushes for a "better", i.e. more complete or more radical approach to environmental problems by claiming higher standards, shorter deadlines and fewer exceptions.

It can be argued that precisely because the European Parliament has so little say in Community politics, it is much freer to propose radical solutions - radical in the sense that they may be appropriate for solving one problem but do not take into account political and financial constraints. This argument relates to the criticism that Parliament is a mere talking-shop and not to be taken seriously. There is surely also some truth in this point. One may suspect that there is a tendency in every powerless parliament towards the expression of all different and even contradictory interests without ensuring overall coherence between the various claims. Actually, this tendency may be reinforced in the case of the European Parliament as the financial and political burden of EC legislation often has to be born not by the EC but by the member states. On the other hand, it has to be said that it is the Commission and the House which work against the logic of the lowest common denominator which may often prevail in the Council.

As the European Community is a political entity which goes beyond international, intergovernmental cooperation and has the power to pass binding legislation, the present state of affairs is certainly not satisfactory from a democratic legitimation point of view. As a directly elected body, the House should have a larger say in legislation which falls into Community competence. It should be a true co-decision-maker in EC affairs, without negating the part to be played by the Commission and the member states.

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to the rule that the EC should take action only where the goal of environmental protection was better attained by Community than by member states' action (i.e. the subsidiarity principle), Parliament insisted on concurrent legislation for the EC. New national environment-related regulation was to enter into force only if the Community did not act within certain time limits after the notification to the Commission of the new regulation. Although checked by the subsidiarity principle, this provision would mean a considerable gain in powers for the EC. None of Parliament's proposals which would have strengthened Community competences in the environmental policy field found its way into the Single Act.[71]

A new occasion for Parliament to urge an enlargement of Community competences in environmental policy is the present intergovernmental conference on the creation of a European Union. In a resolution in 1990, Parliament called for an amendment of the Treaties to include as an objective of EC environmental policy the "contributing to international action against the dangers threatening the ecological equilibrium of the planet", and proposed the establishment of a European Environment Fund.[72] Otherwise, Community competences in environmental policy were considered adequate on condition that their exercise be subjected to majority voting in the Council and increased rights of participation for the European Parliament. To what extent an enlargement of the EC's role in the area of environmental policy is at all desirable is obviously open to debate. By being satisfied with the present powers conferred on the EC in its 1990 resolution on the intergovernmental conference and not repeating the claim for EC concurrent legislation, the House may have wisely shelved earlier proposals which overshot the mark.

[71] In addition to these crucial institutional amendments, the House proposed the inclusion into the EEC Treaty of a definition of the content of environmental policy. Similarly, EC environmental policy was to be extended into other policy areas through environmental impact assessments and increased consideration of environmental aspects in structural planning and regional planning. Parliament also wanted Art. 92 EEC to be changed in order to allow state subsidies for environmental purposes.

[72] OJ No C 231, 17.9.90, p. 97.

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The provision of funds for environmental purposes has been a goal of the House for several years. Resources for environment-related measures have always been contained under separate budget lines. In the annual budgetary procedure, Parliament had continuously gone beyond the respective appropriations proposed by the Commission. Again in the fall of 1990, the House's rapporteur on the 1991 budget complained that the Community's financial commitment to environmental protection did not match its "grandiose declarations" and reiterated the call for a separate structural fund for the environment.[73] The Commission has now proposed a Financial Instrument for the Environment (LIFE) which combines several existing budget lines with a view to increasing the visibility and effectiveness of the Community's financial involvement in environmental policy and enhancing its integration with other actions.[74] The relatively strong powers of the House in the Community's budgetary process will allow it to underpin its own claims for a stronger environmental policy with concrete steps.

Besides its efforts to amend the Treaty basis with a view to increasing the environmental policy powers of the European Community, Parliament has pushed for an effective use of existing Community responsibilities. The implementation gap in EC environmental law has been mentioned above. Indeed, the correct transposition of EC environmental directives into national law and the actual application of these national laws and regulations have become a major cause of concern within the Community. In order to strengthen the EC's monitoring and enforcement capacities, Parliament has proposed legal and institutional innovations.

Thus, the Commission is asked to establish more efficient proceedings for the control of the implementation of Community law. In its own judgement, Parliament has scored successes in pushing the Commission in this direction. According to a 1988 resolution, the Commission set up a separate unit for the monitoring of the application of EC environmental law following a related claim by Parliament in 1984.[75] However, according to this resolution, the efforts to ensure the application

[73] PE 143.404, 11.9.90.

[74] COM(91)28 final, 31.1.91.

[75] OJ No C 94, 11.4.88, p. 151.

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of EC law have to be stepped up. For this purpose, Parliament proposes an environment inspectorate "the task of which should be to monitor on the spot, by using mobile measuring stations, sampling and so forth, the actual application of Community law". The creation of European Inspectorates, "most notably and urgently in the field of the environment", is also contained in Parliament's strategy for a European Union.[76] Another device proposed in the 1984 resolution is an increased participation of Community citizens in the monitoring of Community law. Citizens should be encouraged to make complaints to the Commission regarding the failure of a member state to comply with Community regulation. In a second resolution on the same day, the European Parliament proposed an increase in Commission staff responsible for the implementation of environmental law, and the possible employment of environment inspectors in order to increase the Commission's monitoring capacities.[77] Similarly, the Commission should become involved more directly in the implementation of EC environment law by promoting direct contacts with the respective authorities in the member states. Parliament's urge to improve the enforcement of Community environmental law is one of the most significant elements of the assembly's environment-related action. Its intention to become involved in this field itself is a peculiarity, as the monitoring of law enforcement is not a traditional task of a parliament. It testifies both to the magnitude of the problem and to the special nature of the Community political system.

A significant step in the building of the institutional framework for EC environmental policy was the establishment, in 1990, of the European Environment Agency.[78] In the legislative process, Parliament proposed a wider scope of tasks for the Agency, especially competences in the monitoring of the enforcement of EC environmental law "on the ground", the preparation of transfrontier emergency plans, environmental impact assessments for Community-financed projects and

[76] OJ No C 231, 17.9.90, p. 97.
[77] OJ No C 94, 11.4.88, p. 155.
[78] OJ No L 120, 11.5.90, p. 1.

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"green labelling".[79] While the Council was not willing to follow these proposals, it took over the House's suggestion to reconsider the scope of the Agency's tasks after two years. The powers of the Environment Agency were a question which was hotly debated within the assembly itself.

In sum, the European Parliament has pushed for an extension of Community powers in the field of environmental policy. It has done so by working for a strengthening of the enforcement capacities of the Community regarding the implementation of Community law, by demanding the incorporation of strong legislative powers for the Community into the Rome Treaties and by making proposals for the development of EC institutional structures. Parliament's efforts in the environmental policy field are embedded into the House's broader efforts to push the process of European Community integration.

[79] OJ No C 68, 19.3.90, p. 50; OJ No C 96, 17.4.90, p. 112.

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Part B - The making of environmental policy within the European Parliament

In the first part of this paper, the role of the European Parliament within the institutional system of the EC has been considered. It has been shown that Parliament indeed plays an active part concerning environmental policy but that its actual influence is limited due to the legal restrictions to which it is subjected. In the remainder, the focus of the analysis is on the internal workings of Parliament in this field. More specifically, the question addressed will be what is the importance of environmental policy within the assembly, and how do MEPs come to grips with the highly technical nature of much of environmental regulation. While it will not be possible to deal with these questions in great depth nor in an all-encompassing way, the discussion should shed some light on these issues and possibly point to fields for further research.

1. The importance of environmental policy within the European Parliament

Generally speaking, the protection of the environment is arguably of overriding importance for society as a whole and has to be taken into account in decisions in all policy sectors, as it concerns the very bases of human life. Nevertheless, conflicts of interests and perceptions between environmental policy orientations on the one hand, and claims motivated by other concerns do exist. Environmental policy-makers have to struggle with actors representing different interests and points of view. Compromises have to be negotiated, and the content of these compromises reflects balances of power and the importance attributed to environmental considerations by the respective organisation or the social system as a whole.

At least as far declarations of intent are concerned, environmental considerations have gained in importance in the European Community over the last few years. Progress on a conceptual level is reflected in the four EC environmental action programmes. In particular, the understanding that environmental policy is not just

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one policy sector amongst others but has to be integrated into all other policy areas has over the years become a tenet of environmental policy. On a theoretical level at least, the European Parliament was very early in putting forward this principle in a resolution in 1972.[80] The fourth EC environmental action programme of 1987 contains the integration principle as one of its guidelines.[81] The European Parliament has again supported this orientation in its resolution on the fourth action programme. Ecological considerations should "be given priority consideration for certain decisions in the field of research or industry."[82] Even if we do not assume a "zero sum" situation, the integration principle to some extent implies a check on the realisation of non-environmental interests and can be expected to arouse resistance by actors in the other policy areas.

The European Parliament likes to give itself the reputation of a promoter of a sound and rigorous EC environmental policy, and has criticised the other Community organs for failing in pursuing such a policy.[83] However, also Parliament itself has to accept scrutiny in a comparison of its general policy statements with its day-to-day activity. How well did the House do in integrating environmental concerns into its own policy-making in view of very divergent social interests and "traditional thinking"?

The regular parliamentary mechanism for ensuring a minimum of integration between different policy perspectives on some matter is the opinion given by one or two other "committees asked for an opinion" to the report and draft resolution prepared by the committee responsible.[84] Thus, for instance, when the agriculture committee as the committee responsible deals with a problem which also touches on environmental policy objectives, the environment committee writes an opinion

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[80] OJ No C 46, 9.5.72, p. 10.

[81] OJ No C 328, 7.12.87, pp. 9-13.

[82] OJ No C 156, 15.6.87, p. 138.

[83] For instance, the assembly - in its abovementioned resolution on the draft proposal for the fourth environmental action programme - expressed its belief "that the Commission's programme does not make adequate provision for the ever-growing risks to man and the environment inherent in technical progress". (OJ No C 156, 15.6.1987, p. 138.)

[84] See Rules of Procedure (5th edition), Rules 112(3) and 120.

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on the issue. In theory, this opinion shall be considered by the committee responsible when drafting its report and motion for a resolution. In practice, it is often only attached to the report as an annex for the consideration of the House. Obviously, the committee asked for an opinion can voice its point of view again in the plenary debate on the report. Proposals for amendments by the environment committee to reports of the agriculture committee reportedly stand a good chance of being adopted by the House.

An assessment of the importance attached to environmental policy orientations by the European Parliament can proceed in several different ways. Firstly, one could analyse how many and what kind of environment-related amendments to reports and resolutions and proposals were adopted in the plenary. This analysis has not been undertaken in the framework of this paper. Secondly, in a tentative way, the standing and the role of the environment committee within the European Parliament can be taken as an indicator. The environment committee can be seen as the advocate of a rigorous environmental policy which tries to interfere from its position into other policy areas. Thirdly, in a more thorough manner, one may look at the extent to which environmental orientations have been taken into account in Parliament's policy-making in specific policy sectors. I will do this for the Community's common agricultural policy (CAP).

1.1. The Committee on the Environment, Public Health and Consumer Protection of the European Parliament

The organization of its assembly in eighteen different committees is one of the fundamental structural elements in the workings of the European Parliament. It is in the committees that the major part of the actual parliamentary work is done.[85] They draft the reports on legislative acts within the consultation and the cooperation procedures, and propose amendments and a draft resolution to the plenary. Under certain conditions, Parliament may even delegate to the appropriate

[85] For the following, see the relevant provisions in the European Parliament's Rules of Procedure (5th edition).

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committee the power to make a final decision in the consultation and the first reading of the cooperation procedure substituting a vote in the plenary. After Parliament has given its legislative opinion, the committee shall follow up its observation by the Commission and the Council. Motions for parliamentary resolutions submitted by individual MEPs are referred to the appropriate committee which decides on the further procedure. Subject to the authorization of Parliament's enlarged Bureau, committees can draw up own-initiative reports and submit motions for resolutions to the plenary. Within the committee, individual MEPs acting as rapporteurs normally draft the reports which are then discussed and voted on by the committee.[86] The importance of committees in the European Parliament reflects its character as a working parliament according to the German Bundestag model rather than a debating parliament according to the British model (Grabitz et al. 1988: 402).

With its 51 members, the Committee on the Environment, Public Health and Consumer Protection is the third largest of Parliament's committees. It is also one of its busiest. It has to cover a broad range of matters from the fairness of commercial transactions to cosmetic products to the disposal of waste. Environmental policy issues, however, account for a good part of the committee's workload. The increasing importance of environmental policy over the last few years and the corresponding growth of responsibilities of the environment committee have even aroused misgivings within the Parliament which resulted in a delimitation of the committee's responsibilities in July 1989. The environment committee lost its responsibility for work place safety to the social affairs committee.[87] This cut-back on its policy scope is a reaction to the importance that the committee as a whole has gained mainly due to its environmental policy activities. Similarly, in 1989, several MEPs founded an informal "inter-group" for public health and consumer protection which can be seen as a competitor of the environment, public health and

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[86] There is a simplified procedure according to Rule 116 of the European Parliament's Rules of Procedure (5th edition).

[87] See Amendment to the Rules of Procedure of the European Parliament, adopted on 26 July 1989.

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consumer protection committee. For some time, an active "inter-group" on animal welfare has existed.

Concerning the standing and the role of the environment committee in the House, the first observation is that the environment committee has reportedly gained respect over recent years. Even if liberal and conservative MEPs complain of the committee of being too ideological, membership in it is now a well-thought-of position for MEPs. As the environment is a popular issue with the electorate, and as, on the other hand, a "reasonable" environmental policy is called for which does not impinge too much on economic and social life, the environment committee offers a good platform for politicians of many convictions. Indeed, in 1990, all political groups in the European Parliament were represented in the environment committee roughly according to their size, with the Greens and the Socialists being slightly overrepresented. For the Socialist group, the chairmanship of the environment committee is a number-one choice in the inter-party negotiations on the committee seat distribution at the beginning of the parliamentary term.

Apart from the reputation which the environment committee enjoys in the European Parliament which reflects the attention given to environmental matters by the assembly, a process can be conceived of in which committee members from different party groups develop an esprit de corps which leads them to be united around certain positions concerning the environment. According to this line of thought, the members of the environment committee would on average be "greener" than other MEPs. By representing solutions found in common in the environment committee in their respective party groups, environment committee members may shift the whole Parliament to a "greener" stance.

A first point in support of this hypothesis is that party lines indeed seem to loose importance in the environment committee. Reportedly, party-determined splits are not consistent within the committee and a lot of cross-party alliances occur. For instance, in the committee's work on the European Environmental Agency, a split between supporters and opponents of a more or less principled stance in this issue developed in all party groups. Indeed, the Socialist group saw its two leading MEPs Ken Collins and Beate Weber pitted against each other in this matter. Moreover,

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frictions between the environment committee and other committees which transcend party lines are not exceptional.

More positively, an analysis of the environment committee's voting behaviour on its reports shows a high degree of consensus. A lot of the votes on the committee's recommendations to the plenary and motions for legislative resolutions are taken unanimously or with only two or three negative votes and abstentions. Tight votes within the committee are rare.[88]

The input that the environment committee may have into the work of other committees depends not least on the general relations with these committees. An important factor in this context can be MEPs sitting both on the environment committee and the other committee concerned. For example, in 1990, there was only one member of the environment committee sitting on the agriculture committee. Another 11 MEPs were a member of the environment committee and a substitute on the agriculture committee or vice versa.[89] Not least, there is a lot of psychology involved. For instance, relations between Parliament's environment and agriculture committees are reportedly affected by underlying tensions. One point of potential dispute is the delimitation of competences between the two committees. Both committees are responsible for certain aspects of veterinary legislation and for the regulation of the foodstuffs industry, and the line between those competences is often not easy to draw.[90]

In sum, the reputation and the role of the environment committee as an approximate indication of the extent to which environment-related concerns are taken into account suggest a "green" policy orientation of the European Parliament. The available evidence shows that the environment committee's standing within the House is good and that its effectiveness in leading the House on environmental

[88] This analysis is based on the voting behaviour on the 54 reports in the consultation procedure between 1984 and 1989 in which Parliament proposed amendments. The reports covered environmental, consumer protection and public health legislation.

[89] List of Members, 19.11.1990.

[90] See Amendment to the Rules of Procedure of the European Parliament, adopted on 26 July 1989. While the agriculture committee is responsible for veterinary legislation relating to animal health, the environment committee is responsible for veterinary legislation in view of public health.

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policy issues may be increased by its relative internal unity which transcends normal party divisions.

1.2. The integration of environmental aspects into agricultural policy

There are several policy areas lending themselves to an analysis of the integration of environmental considerations, and the choice among them is certainly subjective. Agricultural policy, which is taken as an example in this study, is interesting in that it is a core element of EC policy. It should also be said in advance, however, that it has certain aspects to it which make it a likely candidate for an analysis which shows a lack of integration of environmental policy concerns. For many years, the common agricultural policy has been a prime target of environmentalist critique. Art. 39 EEC which defines the goals of the CAP does not mention the consideration of environmental aspects. Moreover, farmers' interests are well organised both in Community member states and at the Community level itself. This is also true for the European Parliament. Although equating farmers' interests with an "anti-environment" stance is certainly misleading, the present mode of agriculture is open to a lot of criticism from an ecologist point of view, and resistance of agricultural interests to certain environmentalist claims can be foreseen. The policy integration problem can thus be expected to exist. As the analysis in this chapter will demonstrate, the European Parliament did not indeed play a leading role in pushing the EC to introduce environmental orientations into agricultural policy.

Before the 1980s, consideration for environmental ramifications of agricultural policy was basically absent from EC legislation. Rather, the ecological side benefits of farming were stressed. Thus, in an important agricultural Council directive of 1975 on mountain and hill-farming and farming in certain less-favoured areas[91], the "conservation of the countryside" was mentioned as a reason for financial support to farmers in certain less-favoured areas. In its legislative resolution on this

[91] Council Directive 75/268/EEC (OJ No L 128, 19.5.75, p. 1).

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directive in 1973, the European Parliament called on the Commission "to present proposals for measures capable of providing encouragement for forest farms, in view of their ecological importance". On the other hand, Parliament pointed to constraints imposed on farmers in nature conservancy areas for ecological reasons as a problem for farmers, and invited the Commission to consider this problem.[92] In sum, in the mid-1970s, agriculture was seen by the EC as contributing to environmental protection, and negative environmental consequences of agriculture were not perceived. Parliament shared this view.

Environmental concerns were for the first time taken into account explicitly under the CAP in a regulation on structural aids for the agriculture in the West of Ireland.[93] This regulation stipulated that the farming support programme to be drawn up by the Irish government had to contain a statement on the compatibility of the measures envisaged with environmental protection. Thus, possible conflicts of interest between environmental protection and farming were perceived. In its opinion on the Commission proposal, the European Parliament did not specifically consider this question.[94]

The situation had again changed four years later. The Council regulation 797/85/EEC viewed environmental protection as not ensuing automatically from farming and therefore provided for special investment aids for environmental protection and improvement measures.[95] Beyond that, also member states were allowed to provide financial support for ecologically sound farming in environmentally sensitive areas. In its legislative opinion on this regulation, Parliament did not particularly stress the ecological aspect beyond its treatment in the Commission proposal and the final regulation.[96] It proposed an additional recital emphasizing the environmental aspects of farming, and a provision that would allow aids in the eggs and poultrymeat sector if they were linked to the

[92] OJ No C 37, 4.6.73, p. 56.
[93] Council Regulation 1820/80 (OJ No L 180, 14.7.80, p. 1).
[94] OJ No C 85, 8.4.80, p. 57.
[95] OJ No L 93, 30.3.85, p. 1.
[96] OJ No C 127, 14.5.84, p. 161.

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improvement of the environment and animal welfare. This latter provision was more in favour of the eggs and poultrymeat sector than of environmental protection, though, as the Commission had proposed that no such aids should be allowed at all. In any case, neither proposal was adopted by the Council.

The three pieces of legislation which have been referred to so far do not present the European Parliament as exercising a leading role in the integration of environmental orientations in EC agricultural policy. While the legislative process leading up to these regulations has not been reviewed, at least the final legislative opinions of the House did not make any substantial proposals for an extended consideration of environmental concerns. Up to 1985, environment-related provisions in EC agricultural policy obviously originated in the Commission or the Council, but not in the European Parliament.

In 1985, an important step was made by Parliament's environment committee with a hearing on "Environment and Agriculture" (see European Parliament 1985b). Around this hearing, frictions arose between the environment committee and Parliament's Committee on Agriculture, Fisheries and Food. While the agriculture committee complained after the hearing that it had not been integrated in its preparation[97], members of the environment committee said that the agriculture committee did not respond to the environment committee's invitation. In the hearing, the participating members and substitute members of the environment committee outnumbered their colleagues from the agriculture committee. Reportedly, this hearing was the first occasion at which the agriculture committee considered environmental matters.

Reading between the lines, the differences in approach between the two committees became already apparent in the introductory statements to the hearing by Beate Weber, the chairwoman of the environment committee and Jean Mouchel, vice chairman of the agriculture committee. While Mrs Weber acknowledged the difficult situation of farmers in the Community, she asked two questions which must

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[97] See the agriculture committee's opinion on the report resulting from the hearing (Doc A2-207/85, 3.2.86, p. 67).

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sound provocative from a traditional farmers' point of view: "Has stepping up production resulted in a better situation all round, or in better product quality? Is European agricultural policy socially and environmentally acceptable?" Mr Mouchel, on the other hand, pointed to the achievements of the CAP and stated: "It is therefore important now to consider other proposed reforms that relate principally to social aspects and environment-protection from the standpoint of ecology, with a view to giving them more prominence in future, though of course without adopting any measure that might impede the ordinary course of agricultural activity." These remarks reflected repeated tensions between agricultural policy-makers and environmental policy-makers in the European Parliament.

The hearing resulted in a substantial report of the environment committee by François Roelants du Vivier.[98] Without wholesalely condemning the farmers in the Community, this report discussed in great detail the different aspects of environmental problems linked to EC agricultural and forestry policy. The agriculture committee delivered a long opinion on this report which recognized the negative environmental ramifications of the CAP and the lack of integration of environmental concerns, and welcomed a new emphasis by the Commission on environmental considerations in agricultural policy. Yet, the opinion warned that environment-related measures which would restrict farmers' incomes would be counterproductive: "the best way to protect the environment is to ensure reasonable prosperity for farmers."[99] Therefore, a broader perspective comprising not only the environment but also rural development and the social conditions of agriculture was advocated. Supportive measures (income aids for environmental purposes, information and training, research) were favoured against restrictive measures.[100] On the whole, the opinion, while advocating new steps to make agricultural policy more ecologically sound, defended the interest of farmers in the maintenance of their position. Nevertheless, this opinion marked an important step by the agriculture committee towards at least recognizing environmental objectives.

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[98] Doc A2-207/85, 3.2.86.

[99] Doc A2-207/85, 3.2.86, p. 64.

[100] See also the 1989 Maher report on "the future of rural society" (Doc A2-146/89, 28.4.89).

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In the vote on the draft resolution attached to Roelants du Vivier's report, the European Parliament, after a long procedure with many amendments and separate votes, basically merged the draft resolution by the environment committee and the conclusions of the opinion of the agriculture committee. Two central claims of the environment committee's motion did not find their way into the final resolution, however. They referred to the idea of a tax on nitrogenous fertilizers and "limits on the application of fertilizers according to natural soil characterists and crop type". The resolution, which was passed with 300 votes in favour and 13 abstentions, called for "a revision of the common agricultural policy in terms of a more integrated approach to ecological and regional concerns and differences and an overall policy based on quantitative and qualitative objectives." It contained a long list of actions to be taken.[101]

The 1985 hearing on agriculture and the environment was a major breakthrough in Parliament's consideration of this interface between two important policy fields. Moreover, since then, the sensitivity of the agriculture committee for environmental concerns seems to have increased, although general interest for ecological questions is still low. It is still only individual MEPs who focus on ecological aspects of agricultural policy. Own-initiative reports for the agriculture committee were prepared by the Green MEP Friedrich Wilhelm Graefe zu Baringdorf on the effects of the use of biotechnology on the farming industry[102], and by the Socialist MEP José Happart on the use of hormones in the dairy and meat sectors.[103]

An attempt to closely link structural agricultural policy measures with environmental policy objectives has recently been made by the German liberal MEP Manfred Vohrer, who is a member both of Parliament's agriculture and environment committees.[104] An important element in present EC agricultural policy is the set-aside of arable land in order to limit surplus production. Farmers who decide to set aside part of their land can be reimbursed by the member states.

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[101] OJ No C 68, 24.3.86, pp. 72, 80.

[102] Doc A2-159/86, 21.11.86.

[103] Doc A2-30/88, 25.3.88.

[104] Doc A2-24/90, 2.2.90.

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As the set-aside scheme has so far not produced satisfactory results, the Commission had proposed to make the incentives for farmers more attractive. On the basis of the report by MEP Vohrer, Parliament in 1990 amended the Commission proposal to allow member states to increase set-aside premiums according to the length of time the land has been out of production, the reversibility of the set-aside and its ecological usefulness.[105] This provision was to encourage the set-aside of land for ecological purposes by making it more attractive to farmers and thus to contribute to environmental protection. While Parliament's proposals were not adopted by the Council for the regulation under discussion[106], they found their way into a new Commission draft for a regulation on environmentally friendly agricultural production methods.[107]

Agriculture is a policy field which is characterised by strongly entrenched interests of the majority of farmers and agro-industry who are to a large extent opposed to or at least sceptical of environmental considerations which interfere with agricultural practice. These interests are well represented in the European Parliament, and specifically in its agriculture committee. Indeed, it needed the 1985 hearing on "Environment and Agriculture" organised by the environment committee to make Parliament sensitive to the environmental ramifications of EC agricultural policy. The environment committee acted as a catalyst within the House and successfully promoted its assignment. Already prior to 1985, however, environmental considerations had made their first, however small, inroad into EC agricultural policy on the initiative of the Commission and individual member states. Even since then, a leading role of Parliament in integrating environment and agriculture is difficult to see. In a 1990 resolution, the House limited itself to calling on the Commission to make further suggestions on the integration of environmental and agricultural policy.[108]

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[105] OJ No C 96, 17.4.90, pp. 156, 278.

[106] See Council Regulation No 752/90 (OJ No L 83, 30.3.90, p. 1).

[107] COM(90)366 final, 2.10.90; The idea of a land set-aside for environmental reasons was contained, however, already in the Commission's communication on "Environment and agriculture" in 1988 (COM(88)338 final, 8.6.88).

[108] OJ No C 68, 19.3.90, p. 182.

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2. The problem of expertise in environmental policy-making in the European Parliament

The problem of expertise is one of the most intriguing questions concerning environmental policy-making, and, indeed, the making of environmental policy cannot be adequately understood without taking into account the role of knowledge and its holders in the decision-making process. By way of a short introduction, this chapter first outlines the problem as it presents itself for the Members of the European Parliament. Its main part is devoted to describing how scientific input into parliamentary work is organised. At the same time it is pointed out that Parliament is not adequately equipped to acquire the expertise it needs.

In many cases, decision-makers in environmental policy are confronted with highly technical questions and are affected by scientific uncertainty about the ramifications of the matters to be decided upon. For example, the setting of ambient quality standards should ideally be based on an exact appraisal of the effects of certain concentrations of some dangerous substance in water, air or soil on the flora and fauna and human health. This appraisal, however, is extremely difficult to make or may not even be possible from a scientific point of view. In comparison to ambient quality standards, the decision on the inclusion of a bird species into the list of protected animals prima facie seems unproblematic. However, for the legitimation of such a decision, data must be furnished which show that the species concerned is threatened with extinction. Thirdly, even the scientific community is able to make predictions about the rise in temperatures over the next decades due to the greenhouse effect only within certain margins of uncertainty. Some scientists even challenge the very existence of this global environmental hazard. Yet, if the potentially disastrous consequences of a possible greenhouse effect are to be mitigated, measures have to be taken now. Even when it comes to the assessment of certain legal and economic instruments for environmental policy purposes, many policy-makers for good reasons seek expert advice.

Roughly speaking, three different roots of the problem of expertise confronting environmental policy-makers can be distinguished. Firstly, scientists themselves may

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be unable to provide sure answers about causal relationships, the significance of thresholds (e.g. concerning emissions or ambient concentrations of certain substances) or future trends. For many issues, a lack of data, of scientific knowledge or even of scientific attention does not allow a well-founded assessment. Secondly, monopolies or quasi-monopolies of technical expertise may exist. Only producers of a specific good may know about the technical feasibility and the costs of changes in product design or in the production process required by some environmental regulation. They may not be willing to disclose such information to policy-makers. Lastly, the lack of an adequate professional and knowledge background of policy-makers themselves may hinder them in making informed judgements. Policy-makers cannot be experts in all fields in which their decision is required.

The Members of the European Parliament who are involved in environmental policy are particularly confronted with these problems as EC environmental law is for a large part characterized by its rather technical content. As Community environmental law is implemented by the EC member states, very detailed specifications are required in order to avoid differences in the implementation of EC regulation between countries which might lead to differences in regulatory costs imposed on industry. This in turn would result in distortions in competition. For the same reasons, regulation through flexible mechanisms of interaction between the regulatory authorities and the regulatees, as opposed to clear legal provisions, is not possible in Community environmental regulation. Therefore, while the choice of instruments by which certain environmental objectives are to be achieved is left to the member states, Community environmental law by necessity has to be precise as far as the objectives to be attained are concerned. From all this follows the necessarily technical nature of many legislative matters which MEPs have to deal with in the environmental policy field.

Moreover, in contrast to civil servants who may be specialized in one or a few areas and to some extent become experts themselves, parliamentarians generally have to cover a large spectrum of political questions even if they specialize to some extent. Besides, they are involved in many tasks linked to their "political business", and working on legislation is only one of them. While MEPs mostly are not willing

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to admit that a problem of knowledge seriously affects their work and many would emphasize the political character of their decisions, few MEPs if any at all would disagree that they are overburdened with work and cannot properly process all the information received.

The European Parliament as all parliaments in Western democracies has given itself various means which should help it in coming to terms with the problem of expertise described above. Basically, these means consist in employing staff for research purposes in Parliament's secretariat on the one hand, and in drawing on outside experts in various ways on the other.

Day-to-day support for MEPs' work is provided by the secretariat of the European Parliament in Luxemburg.[109] There are two directorate generals in the secretariat which serve the parliamentarians' needs while being themselves in difficulties when it comes to highly specialized problems. In particular, a lack of staff with a natural science or engineering background is an important impediment to the secretariat's work.

In the first department of relevance here, the Directorate General of Committees and Delegations, Parliament's different committees each have their own secretariat. These committee secretariats are responsible for the administration of the committee, for the preparation of the committee's sessions and for supporting the work of committee members. For these purposes, the environment committee's secretariat has a staff of seven A-level officials.

The committee secretariat's scientific input becomes relevant when rapporteurs appointed by the committee are preparing their reports. One of the secretariat's officials is assigned to assist the rapporteur. The extent of the official's involvement in the writing of the report varies from case to case depending on the interest which the rapporteur himself takes in the matter and the amount of work he or she is willing to invest. Indeed, there is no control over who is actually writing a report. The rapporteur merely has to take the responsibility for the report, to deliver it and

[109] It should be noted that this description focuses on the scientific resources provided for by the European Parliament itself. Other potential sources of knowledge are MEPs' personal assistants and the staff employed by their respective national parties and the party groups in the House.

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to guide it through parliamentary proceedings. Indeed, it is rather exceptional that a rapporteur drafts his report all by himself. In some cases, his personal assistant does the main part of the work, and reportedly MEPs increasingly employ qualified personal assistants to help them in their substantive work. In other cases, the secretariat official assigned to the rapporteur takes over most of the information gathering. While no data on the involvement of secretariat officials in the preparation of reports exist, secretariat officials are said to write most of them at least as far as the field of environmental policy is concerned.

Besides the environment committee's secretariat, the Directorate General for Research within Parliament's secretariat in Luxemburg is involved in helping MEPs in their work. Within the Directorate General, at present one A-level civil servant is responsible for environment-related issues. While not being charged with purely administrative tasks, the Directorate General for Research answers questions addressed to them by MEPs, does ghost-writing for MEPs and undertakes studies commissioned by MEPs for internal purposes or to be published in the framework of Parliament's information and public relations efforts. As is true for the environment committee's secretariat, also the work of the Directorate General for Research is mainly ad hoc in its nature and tailored towards the immediate needs of parliamentarians.

The division of labour between the environment committee's secretariat and the Directorate General for Research is not always clear-cut. As a general rule, personal and national affiliations between individual Members of the European Parliament and civil servants in Parliament's secretariat play an important role. In addition, the personal expertise of individual officials obviously is important. Individual MEPs and officials may have established a fruitful working relationship. Besides, the basically arbitrary factor of a common language between an MEP and a civil servant in Parliament's secretariat exercises a selective power which is probably often underestimated. In terms of its assignments, however, the Directorate General for Research is responsible less for the day-to-day work of the committee as is the committee's secretariat.

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What support can Parliament's secretariat in Luxemburg, as it has been described so far, provide for Members of Parliament in terms of scientific expertise? The crucial impediment to adequate scientific and technological advice on the part of Parliament's secretariat is the lack of staff with a natural science or engineering background. Nearly all of the secretariat's A-level staff is composed of lawyers, economists and social scientists. While these disciplines have their own qualifications which are of crucial importance to the work of the European Parliament, the professional composition of Parliament's staff in terms of academic training is little adapted to the need for policy advice in complex scientific matters. Obviously, the possibility of learning and specialization beyond an originally acquired academic training exists. Moreover, the secretariat of a parliament by its very nature cannot be a research institution covering all disciplines and sub-disciplines of natural and engineering sciences. It is nevertheless true that Parliament's in-house resources to provide the scientific expertise which is required in many environmental policy matters is thus unnecessarily restricted.

For each organization, the alternative to in-house expertise is to seek advice from outside. This is indeed what parliamentarians themselves do, and what is also done by the officials of Parliament's secretariat. Private and official outside contacts to research institutions, individual scientists and other experts can serve to gather information and valuation about issues in question. An important potential source of information for environmental policy-makers in the European Parliament is the Commission's directorate general responsible for the environment which to some extent seems to be willing to share its information with the environment committee and its secretariat. Another potential source of expertise are different interest groups. Both business and environmentalist groups lobby Parliament to make their voice heard, although the environmentalist lobby at the EC level is hopelessly weak. Informations provided by lobbyists can be of great use to policy-makers. In view of the substantive input which secretariat officials can have into Parliament's work, the attention of many interest groups is directed not only at the level of MEPs but also at the level of Parliament's secretariat.

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A general problem with outside expertise is that the right questions have to be asked and the information received has to be evaluated. Policy-makers have to assess the accuracy of some piece of information, and its significance in the light of their own decision-making parameters. Is the expertise reliable? What implications does it have for some decision to be made? What counter-evidence or counter-arguments have to be considered? The application of outside expertise to concrete policy problems has to be made by Parliament and its staff itself. To some extent, it again requires in-house expertise which the European Parliament is lacking as far as the natural and engineering sciences are concerned.

There are two mechanisms by which the European Parliament tries to enlarge its expertise by drawing on outside sources. Based on an initiative of Parliament's Committee on Energy, Research and Technology in 1985, Parliament's Scientific and Technological Options Assessment Programme (STOA) was launched in 1987. Directed by the STOA Panel composed of eight MEPs representing different parliamentary committees (among them one representative of Parliament's environment committee), STOA is now based in Parliament's Directorate General for Research and has a staff of one full-time official and various STOA Fellows with limited fixed-term contracts. The assignment of STOA is to provide scientific and technical expertise to Parliament with a view to the assessment of different policy options. The expertise is provided either by the STOA Fellows who in general have a natural science or engineering background, or through the contracting out of research projects to other institutions. The contracting-out of projects to other institutions is the cornerstone of STOA's activities.

The potential of STOA consists in the temporary creation of in-house expertise through the employment of STOA Fellows who either conduct their own studies or supervise outside research. This mechanism is appropriate particularly when it comes to questions relating to major policy decisions and to the development of long-term perspectives. On the other hand, STOA can be only a start for the build-up of an encompassing expertise by the European Parliament. Its resources in terms

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of staff and budget are much too limited to provide expertise on a continuous basis.[110] Moreover, the position of STOA within the European Parliament has so far been problematic. Its work has not been publicised enough and MEPs have shown little interest in its work. While STOA has been working on environment-related issues like trans-frontier pollution problems and hazardous waste management, the integration of its work with the environment committee and other Parliament bodies has been wanting. A striking example for this lack of integration bodies was work on the environmental situation in Czechoslovakia which was undertaken both by STOA and the Directorate General for Research without coordination.

A second mechanism for seeking outside advice are public hearings organised by the environment committee. These hearings unite Members of Parliament and outside experts to discuss individual policy problems. They serve to directly confront with each other different points of view on the problem under discussion with a view to facilitating MEPs' formulation of their own position. At the same time, hearings are a means of drawing public attention to the European Parliament. The environment committee has held hearings on acid rain in 1983[111], agriculture and the environment in 1985 (see above), the implementation of international conventions on the protection of wild fauna and flora in 1986 and the use of economic incentives in environmental policy in 1990. Also in 1990, Parliament's Committee for Energy, Research and Technology held a hearing on energy and the environment.

Both STOA and the organisation of parliamentary hearings are means by which the European Parliament tries to increase its competence on individual policy matters through the establishment of in-house expertise and the services of outside experts. Compared to the needs of Parliament for expertise particularly in the area of environmental policy, however, these means are underdeveloped. In particular, continuous scientific advice is not provided as both hearings and STOA activities

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[110] In 1990, STOA's budget was 500 000 ECU. STOA has recently also been offered a substantial one-time grant by a major Japanese company. Although formally this grant was not linked to any conditions, this proposal has aroused discussions on the scientific independence of STOA.

[111] Doc 1-1168/83, 16.12.83.

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focus on individual projects and are thus not suited for Parliament's on-going work. The lack of staff with a natural science or engineering training hinders Parliament's secretariat in its policy-advice function towards MEPs when it comes to the scientific and technological matters by which much of EC environmental policy is characterised.

Finally, while this discussion has focused on scientific and technical expertise, the importance also of economic and regulatory expertise must be pointed out. Although the needs in this area may be less evident, the capacity to perform cost-benefit analyses as a basis for regulatory decisions and to evaluate the potential of different regulatory instruments is an important precondition for informed choices between policy options. Also in this regard, Parliament's in-house expertise needs to be enlarged.

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Conclusion

This paper aimed to give a survey of the role of the European Parliament in EC environmental policy. Similarly, I have looked into Parliament's internal workings in this field.

Concerning its position in the political process of the European Community, different functions of the House have been outlined. First, the function of MEPs in articulating the environment-related concerns of European citizens has been pointed to. This articulation function is a central part of parliamentary activities in all democratic systems. Particular importance accrues to Parliament's control over the EC Commission and the Council of Ministers, and to MEPs' active involvement in the monitoring of the implementation of EC environmental law. Efforts in this latter area are at the same time appropriate because of the problems that exist, and difficult due to the limited powers and capacities of the European Parliament. In both its articulation and its monitoring functions, the House works mainly through its questions put to the Commission and the Council and its own-initiative reports and resolutions. In addition, the Commission reports to Parliament on the implementation of Community law.

The function of Parliament as a legislator is still limited because of the legal constraints imposed on Parliament's participation in the legislative process by the EC Treaties. The last word in EC legislation still lies with the Council, restricting the EC Commission to an initiation and mediation role and the European Parliament to an advisory function. While the Single European Act of 1987 with the introduction of the cooperation procedure has increased Parliament's leverage also in many environmental matters, the three case studies have illustrated that the House's overall influence in EC legislation is still piecemeal. Even under the cooperation procedure, it depends on favourable external circumstances beyond the control of MEPs. At best, the European Parliament becomes a co-player in the legislative proceess. Nevertheless, Parliament has gained respect within at least the

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Commission and its proposals are now less likely to be disregarded than even a few years ago (cf also Schmuck 1990: 71).

The last function which has been focused on is Parliament's role in pushing for increased Community responsibilities and powers in the field of environmental policy. The incorporation of a legal basis for a strong Community environmental policy into the Treaties has been a major concern for the House. Its efforts were also directed at the strengthening both of the Commission's law enforcement capacities and of its own monitoring powers.

Concerning the making of environmental policy by the House itself, two aspects have been dealt with. Firstly, the integration of environmental orientations into other policy areas by Parliament has been focused on. The environment committee as an advocate of environmental concerns within the House is well-regarded and appears to be in a good position to lead the way in environmental policy matters. A case study on the consideration of ecological aspects in EC agricultural policy, however, revealed that the integration of the environmental and the agricultural policy areas by the House was wanting. Indeed, the agriculture committee needed some starting help from the environment committee to become at all sensitive to ecological concerns. Overall, the European Parliament rather trailed behind the Commission and the Council in making EC agricultural policy "greener".

Secondly, the problem of scientific expertise in Parliament's environmental policy-making has been highlighted. Various mechanisms and instruments have been described which MEPs use to try to inform their judgements in scientific and technical matters. These are the provision of in-house expertise by Parliament's secretariat, and the drawing on outside experts through personal contacts, the STOA unit in Parliament's secretariat and the organization of hearings. After this description the impression remains that Parliament is not sufficiently equipped to adequately deal with the highly complex policy matters it often has to decide on.

A comprehensive assessment of Parliament's record in environmental policy has not been possible in the framework of this paper due to the broad range of activities and legislation that would have to be covered. In particular, in regard to its input into environmental regulation, it has also been pointed out that influence

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is hard to measure. Only many in-depth case studies could yield enough evidence to corroborate an informed answer. Such thorough analyses would probably also reveal more cases in which Parliament failed to live up to its proclaimed role as a motor of Community environmental policy by its own fault. The failure on its initiative regarding access to information legislation in 1987, due to a lack of internal coordination and bad plenary attendance, and the failure of Parliament to push for the integration of environmental concerns into EC agricultural policy are two cases in point.

The evidence which has been gathered confirms neither the claim that Parliament is the motor of environmental policy in the European Community nor the verdict that it is a mere talking-shop. Besides Parliament, it is the Commission and some "green" member states who act as catalysts for environmental policy by setting the agenda and pushing for the tightening-up of regulation. Parliament, on the other hand, has indeed made substantial efforts to improve EC environmental policy, and has to some extent been successful in it. There is no question that its restricted legal powers have been the major barrier to more influence of the House in this area. A still valid summary assessment is the one made by the Institute for European Environmental Policy in its balance sheet of Parliament's work in its first term following direct elections:

> Within the limits of the means at its disposal, in relation to environmental policy, the European Parliament thus on balance played a role which was not negligible. Nevertheless, the difficulties which it encountered were considerable, linked not to the specific nature of this policy area but to the legal foundation on which its activity is currently based. (Institute for European Environmental Policy, 1984: 2)

In any case, it seems rather doubtful that, on the whole, EC policy in general, and EC environmental policy in particular would merit the "green label" for ecological soundness.

If the limited legal powers of the European Parliament are the main barrier to its influence on EC environmental policy, and if Parliament has been, if not the, but at least a motor of policy-making in this area, then enlarged powers of Parliament in the institutional balance of the EC should be supported by environmentalists. The introduction of the cooperation procedure in 1987, which gives Parliament

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increased rights of participation in the legislative process, and which applies also to a substantial part of environmental policy matters, was a first step in the right direction. The extension of majority voting in the Council and a new "procedure of co-decision between Parliament and Council" for EC legislation in all policy areas including environmental policy is a major objective of Parliament in the present intergovernmental conference on political union. Furthermore, certain rights of initiative are claimed in order to complement the role of the Commission as the initiator of legislation.[112] Unfortunately, the willingness among member states' governments to grant Parliament more rights is rather small. Moreover, the Commission has already warned against an extension of parliamentary rights at the expense of Commission powers. Thus, the prospects for a strengthened role of the European Parliament in EC politics look bleak. The democratic deficit is going to persist. Even under the present restrictive conditions, however, Parliament has been able to gain, in a piecemeal fashion, certain rights which are not provided for by the Treaties setting up the European Community.[113]

The belief that an enlargement of Parliament's powers would be good news from an environmental perspective obviously is based on the assumption that the House, acting under widened responsibilities, would continue to push for a stronger environmental policy. This assumption is open to debate. Firstly, if more powers were vested in the House shortcomings in Parliament's work would have graver practical consequences. Environmentalists would therefore want to see Parliament's capabilities improved. In addition, it may be suspected that with increasing competences the House would be subject to more pressures by diverse interest groups. Indeed, since the strengthening of Parliament's role by the Single Act, lobbying with MEPs has grown. Correspondingly, national and party cleavages within the assembly may deepen. Tensions within the House between different policy objectives may become stronger as the House would have to ensure overall coherence of its policy-making to a larger extent than today. In the process, it may

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[112] See Parliament's resolution of 11.7.1990 (OJ No C 231, 17.9.90, p. 97).

[113] Remember the reporting of the Commission to the House on the implementation of EC law and the conciliation procedure.

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cut back on its environmental policy objectives. The analysis of the integration of environmental concerns into the common agricultural policy in this paper illustrates such tensions and the problem of entrenched interests. The general political context within which the European Parliament has to operate would impose itself to a larger extent. Certainly, no parliamentary assembly can be expected to lead the way far ahead of the general balance between different political and social interests.

As each assembly is its members, the human factor must not be underrated. Individual MEPs' active interest in some field, if sustained, may suffice to influence Community policy-making. This is particularly true if it goes together with more widespread public attention on the matter. Indeed, it is a small group of MEPs who by their efforts in putting questions to the Commission and the Council and in writing carefully investigated reports to a large extent define Parliament's profile in this policy area. While due to double mandates in the European Parliament and national political offices some Members hardly ever appear in Strasburg or Brussels, these activists devote a lot of energy to their parliamentary tasks.

This paper has highlighted two weak points in Parliament's treatment of environmental policy, and the question imposes itself how these weaknesses can be tackled.

While parliamentarians may be or become experts in their own right, a limiting factor of the European Parliament's work in environmental policy is the lack of scientific, engineering and economic and regulatory expertise on which MEPs can draw within their own secretariat. This is particularly true in view of the highly technical nature of much of EC environmental legislation. It is striking that a parliament that has to deal with so many technical matters has hardly any staff with a scientific or engineering background. Obviously, it is not Parliament's task to devise legislation in its detail. Also, Parliament will always have to rely on outside expertise through more or less formal channels. However, it is hard to imagine how the House can adequately assess information given to it by the Commission as well as technical regulations contained in legislative proposals without in-house expertise.

While larger research projects can be contracted out through Parliament's existing (preferably better staffed and better integrated) Scientific and

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Technological Options Assessment Programme (STOA), in-house expertise is particularly needed for Parliament's routine day-to-day work. This need requires the enlargement of Parliament's secretariat by the employment of staff with a scientific, engineering and economic training. Equipped with such new staff, MEPs would be in a better position to evaluate Commission proposals and Council decisions in terms of their costs, benefits and technical feasibility, and to ground their opinions on scientifically valid arguments. Also the evaluation of outside expertise, on which MEPs will have to continue to rely for some part, would be improved. In sum, arguably both Parliament's legislative and its controlling functions would be strengthened by better in-house expertise.

The case study on agricultural policy betrayed that a lack of integration of environmental policy concerns into this policy area exists in the work of the House. The same is probably true also in other policy fields. One idea to solve the problem would be the establishment of an internal monitoring mechanism which would involve the environment committee in the control of the work of other committees. The environment committee would have the right to interfere in the decisions of other committees. This solution, however, is not practicable for at least two reasons. Firstly, the tensions which such control would create within the House might be more damaging than useful for the conduct of environmental policy. Secondly, the environment committee's resources are far too limited to allow such a monitoring role. Even now, the environment committee could propose many more amendments to reports and draft resolutions of other committees than it can actually handle.

It seems that the solution to the policy integration problem can only be found in an increased sensitivity and awareness of the assembly as a whole to environmental concerns. This awareness may be fostered by the environment committee holding hearings on environmental aspects in certain other policy areas. The 1985 hearing on agriculture and the environment is a good example in this regard. The recent hearing of the energy, research and technology committee on energy and the environment shows that other committees may become active in this field as well. Well-founded opinions of the environment committee on reports by other committees and amendments to other committees' motions for resolutions

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contribute to the successful integration of environmental orientations into other policy fields. The good reputation of the environment committee within Parliament both reflects the general importance attached to environmental matters by the House and helps in making the assembly's positions on individual issues "greener".

Looking at the institutional structure of the European Community and its reform with a view to the creation of a political union, it must not be forgotten that progress in European Community environmental policy is driven for the most part by individual member states. Some countries may also be willing to lead the way by tightening up regulation on a national basis. Therefore, the wholesale "europeanization" of environmental policy, as partly advocated by the European Parliament, is certainly not desirable from an environmental point of view. Rather, the perspective lies in combining the principle of subsidiarity with an extension of majority voting to all environmental policy matters and the possibility for member states to go beyond EC environmental standards. It is within this context that the European Parliament's role in environmental policy-making should be strengthened so that it can contribute to a sounder EC environmental policy.

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