

# **Institutionalised Consensus in Europe's Parliament**

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## **Abstract**

Embedded consensus has characterised the behaviour of the European Parliament since its foundation in the 1950s. This research tests the path dependence of consensus during the period of 1994 to 2002, in the light of the changing institutional powers of the Parliament. It challenges existing theory and empirical evidence drawn mainly from roll call votes that has concluded that the European Parliament has become more competitive internally in response to increased institutional powers. There are three causal factors that reinforce consensus: the need to reconcile national and ideological divisions within a multinational political system; the pull of external institutional factors such as institutional change or the separation of powers; and internal incentives for collusion between political actors influenced by the need to accommodate the interests of the national elites present at the level of the European Union. Switzerland, a multiple cleavage system of decentralised federalism that includes consociational characteristics and a separation of powers, provides a comparative reference point for institutionalised consensus. The hypotheses of institutionalised consensus are tested empirically in four ways: 1) by roll call votes between 1994 and 2001, focusing on procedure, policy area, and the cut-off point of the 1999 elections; 2) competition and consensus in the distribution of policy-related office in the Parliament; 3) by Parliament's use of its powers of appointment and censure over other institutions; and 4) by the internal consensus on the preparation of Parliament's bids for greater powers when the European Union Treaties are reformed. In adapting the theory of path dependence to a multinational legislature, the methodology presented in this thesis can be applied in furthering the understanding of other comparable institutions.

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## 1. Introduction

‘No group, not even the largest, holds a majority in the European Parliament. Experience tells us that it is quite normal to seek out majorities in such a situation. In the last Parliament, we [the European People's Party] came to an agreement with the Liberals [on the EP President] ... Parliament would, however, be somewhat out of balance if one Liberal were now to be succeeded by another, and if the second-largest group in this House [the Socialists] were to be kept out of the Presidential office for at least twelve-and-a-half years. For that reason, we have come to this agreement with the Socialist Group... We in this Parliament have a great interest in the stability of the European institutions, and so I appeal to everyone to vote on Thursday for José Manuel Durão Barroso and thereby to demonstrate that we seek stability for the European Commission too... in this House, issues of policy will continue to be the subject of tough debate between the European People's Party, the Socialists and others. The issues will still be there, and will still be bones of contention, but it is important that the institutions be stable.’<sup>1</sup>

In making the above speech, Hans Gert Pöttering, the leader of the Group of the European People's Party/European Democrats (EPP/ED),<sup>2</sup> was reaffirming the politics of institutionalised consensus in the European Parliament. In 1999 the results of the European Parliament (EP) elections had been a victory for the centre-right, above all the member parties of the EPP, at the expense of the Socialists. The EPP opted to use its position of increased strength vis-à-vis the Socialists to conclude an agreement with the smaller Liberal (ELDR) Group at the expense of the former. The agreement covered the election of Parliament's President in 1999 and 2002, the logrolling of important committee chairs between the two groups, and a new status for the Liberals as the preferred interlocutor of the EPP on policy matters.

Before 1999, this type of privileged agreement had existed between the two largest groups, the EPP and Socialists, for a decade. In 2004, the EPP opted to revert to it, substituting the Socialists for the Liberals, as indicated in Pöttering's speech to the new Parliament. The return to full consensus between the two largest groups, following a period of limited competition between 1999 and 2004, shows that the

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<sup>1</sup> Hans Gert Pöttering, Leader of the Group of the European People's Party/European Democrats, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 20 July 2004.

<sup>2</sup> From hereon, the Group will be referred to as the EPP for the sake of simplicity.

Parliament's consensual mechanisms were too strong to fray even when conditions appeared ripe for change.

This thesis argues that the changing agreements for accessing influential positions within the legislative hierarchy did not in fact affect the proportional allocation of *office* in the Parliament following the 1999 elections. With the presidency excepted, the Socialists were in no sense *excluded* from accessing positions in proportion to their group's size. Consensus between the EPP, Socialists, Liberals, Greens, and even some of the smaller and more marginal groups was consistent through the Parliament elected in 1994, as well as its successor of 1999 during which it even increased. Besides the distribution of office, this consensus also applied to voting behaviour on legislation, the appointment of rapporteurs responsible for drafting Parliament's positions on legislation, the appointment of the members of the European Commission and other supranational institutions, and the preparation of Parliament's positions on the enhancement of its own powers during intergovernmental conferences.

While neither the outcome of the agreement between the EPP and Liberal groups in 1999, nor its reversal in 2004, were significant in altering the internal cohesion of the Parliament, Pöttering's speech of July 2004 emphasised the importance of maintaining consensus between the large groups and allocating the presidency of Parliament to the Socialists at some point in view of their status as one of the two largest groups. He linked this with the consensus in favour of the appointment of José Manuel Barroso, a man of the centre-right, as President of the European Commission. The need for 'balance' frequently cited by leading members of the main political groups underpins the institutionalisation of consensus in the Parliament. The development, survival, and self-reinforcement of this consensus is important to



measure in view of the rapid institutional changes that have occurred within the European Union (EU) during recent years. These changes have led much of the research on the European Parliament to seek out and locate instances of competition *between* the political groups, usually in legislative roll call votes. Whereas in the past, Parliament had few powers and there was consequently little incentive to compete, since the Single European Act, and the treaties of Maastricht and, in particular, Amsterdam, the powers of Parliament have grown exponentially. This growth in powers, coupled by a change in the partisan complexions of both the European Council and the Parliament, though in opposite directions, at the end of the 1990s, have provided the Parliament with policy competences and incentives liable to undermine its internal cohesion. It is therefore *logical* that competition between left and right, in which the winners and losers are clearly identified, should develop.

Using a theory to demonstrate the path dependence of institutionalised consensus, this thesis presents empirical evidence to refute such assumptions and to show that Europe's Parliament remains a consensus-based legislature. These findings contribute to a growing literature on legislative behaviour, applied in this context to a directly multinational parliament, whose institutional development has been extremely rapid.

The rest of this introductory chapter presents a plan of the thesis. First of all, it summarises the history, development, and powers of the European Parliament. It provides a summary of the increases in its powers provided under the various treaties, before explaining the context of consensus that exists under the EU system of separation of powers between the Parliament and the other institutions. Next, it returns to summarising some of the existing literature that identifies Parliament as an increasingly competitive institution and it presents the research question that will be examined throughout the thesis, namely how path dependence explains the continuity

of consensus in the European Parliament. The final part of the Introduction summarises the theoretical and empirical chapters that follow.

### **1.1. The History and Powers of the European Parliament**

The European Parliament was first established as the Common Assembly of the European Coal and Steel Community (ECSC) in 1953 under the Presidency of Paul-Henri Spaak. In 1958, it also became the Parliamentary Assembly of the European Economic Community (EEC) and European Atomic Energy Community (EURATOM). The ECSC, EEC, and EURATOM were merged in 1966, while the Parliament gained its first powers in 1970. Until then, it was merely consulted on measures where the Council of Ministers decided on proposals made by the European Commission, or by the Higher Authority of the ECSC. Otherwise the only power it had exercised since 1958 was the power of censure to remove the Commission from office, by a two-thirds majority. This was highly unlikely ever to occur before direct elections to the Parliament, since it was composed of delegates drawn from national parliaments, where the governments that had appointed the Commissions had majorities. It was no more than a consultative assembly composed of delegates sent by national parliaments, although its component party families organised themselves into ideological party groups as early as 1953 and, from that stage, agreed to appoint key officers in the assembly by consensus and according to proportionality between the political tendencies.

The 1970 budget treaty gave Parliament the right to propose amendments to legislation for the first time. If those amendments proposed to move or reduce spending, only a qualified majority in the Council of Ministers could overrule them.

Amendments to increase spending remained effectively consultative, since they required a qualified majority in the Council to be accepted. However, the treaty of 1970 also gave Parliament the right to veto the budget, subject to a two-thirds majority, if it were sufficiently antagonised at failing to have its *consultative* amendments to increase spending approved. Although a two-thirds majority of national parliamentarians to veto a budget at that period would have been impossible to reach in view of the fact that the same governments against whose budget the Parliament would have voted had majorities in each of the national parliaments. Nevertheless, the important precedent was established allowing Parliament some influence beyond the purely consultative on legislation, in this case budgetary outcomes, even if the veto power was unusable. The credibility of the veto was to increase following the introduction of direct elections to the Parliament, since its composition would no longer reflect the government majorities of national parliaments. It is also notable that in the history of all western polities, the first power gained by legislatures has been the power to grant revenue to and permit spending by the executive.

The budget treaty of 1975 represented the next major step in increasing the powers of the Parliament. This divided European Community spending into spending that was considered compulsory (agriculture, fisheries, external relations, and development) and non-compulsory, which consisted of the remaining expenditure headings, then accounting for 8 percent of Community spending. Compulsory expenditure continued to be decided by the same procedure established in the treaty of 1970. Meanwhile, the 8 percent of spending considered non-compulsory was subject to the amendment of Parliament, whether an increase or decrease, by an absolute majority. If the Council did not accept those amendments, Parliament was empowered to force them past an

unwilling Council subject to a majority of three-fifths. Again, before direct election, it is difficult to imagine Parliament committing such an act, but once it no longer reflected the parliamentary majorities of national governments, practice was to change. Since 1975, the proportion of spending considered non-compulsory has also risen from 8 percent to 58 percent, thereby increasing Parliament's *de facto* powers. The treaty of 1975 also created the Court of Auditors, which produces an annual report on community spending, upon receipt of which Parliament votes for or against a *discharge* to approve spending made during the previous financial year. The implications of Parliament refusing discharge on receipt of this report at the end of 1998 were to be dramatic.

In 1975, the governments also agreed to permit direct elections to the Parliament from 1979. Although dual mandates continued in several states, direct election had the effect of creating full-time MEPs who did not reflect the membership of national parliaments. Despite low turnout in European Parliament elections that has raised questions about its legitimacy and that of wider European integration, direct election provided Parliament with a more stable base from which to bid for further powers. Although rates of continuity in parliamentary membership at elections are often below 50 percent, the membership is more stable for a complete five-year term than in a part-time assembly of delegates from national parliaments whose membership changed annually.

In 1979, the newly elected institution asserted the few powers granted by the treaties by rejecting the draft budget of 1980, which it later approved in a modified version, and by appealing against a directive on the licensing of isoglucose that had been approved in 1979 without consulting the Parliament. At the time the Commission had tabled this legislation, Parliament was dissolved for its first elections and therefore

could not be consulted as required by the Treaty of Rome. The Council approved the legislation regardless and the European Court of Justice (ECJ) consequently invalidated it.

In 1980, the governments agreed to appoint Gaston Thorn to lead the European Commission from 1981 to 1985. The Parliament established a precedent by insisting on holding a vote to approve the appointment of the new Commission. In its Stuttgart declaration of 1983, the Council agreed that it would in future consult the Parliament on the appointment of the Commission, although this was finally formalised in the Treaty on European Union ten years later.

The real change in the powers of Parliament occurred thanks to the Intergovernmental Conference (IGC) of 1986 that resulted in the approval of the Single European Act (SEA) of 1987. This allowed for the creation of a single market in the European Community by 1993, providing the institutions with the right to produce the necessary regulatory and deregulatory legislation, including that with a view to harmonising the more controversial areas of social, employment, environment, and consumer standards. The new legislation was to be decided by a co-operation procedure, which had two important characteristics. One was that the Council would approve proposals and amendments by a qualified majority rather than unanimity, creating the possibility of *opposition* governments in a losing minority, and therefore a situation in which Parliament's new legislative powers would apply to more controversial proposals. The other issue was the new power of Parliament to amend legislation and make it easier for the Council to accept than reject. Chapter 3 provides a fuller summary of the details of this procedure, as well as of the two versions of the co-decision procedure described below. The SEA also created the

assent procedure, allowing Parliament to approve or veto non-legislative decisions, such as treaty ratification with third countries, or enlargement treaties.

Apart from the budget and cases of assent, Parliament only gained a definitive veto on other legislation in the co-decision procedure granted by the Maastricht Treaty on European Union, which was agreed in 1991 and entered into force in 1993. This allowed Council and Parliament apparently equal powers in agreeing legislation. However, in the event of failure to agree, Council could attempt to impose a text on Parliament, which would pass by default unless Parliament actively applied a veto supported by an absolute majority of its members. Maastricht shifted many policy areas previously decided by the SEA's co-operation procedure into the remit of co-decision, while moving other policy areas over which the Parliament had no power into either of the two procedures. The new treaty also institutionalised the procedure for approving the appointment of the European Commission. While Parliament would be consulted on the nomination of the President of the Commission, it would have to grant its assent to the Commission as a whole.

The time period covered in this thesis incorporates the Parliament of 1994 and the first half of the Parliament elected in 1999, from July 1994 until January 2002. This begins with the elections that occurred six months after the major institutional change of the entry into force of the Maastricht Treaty. It measures levels of parliamentary consensus throughout that Parliament, and compares them with the Parliament of 1999, elected in a different political climate across Europe and against the backdrop of further increased powers for the Parliament following the Treaty of Amsterdam. The latter treaty was agreed in 1997 and entered into force in 1999, just before the elections.

Amsterdam increased the policy areas to be decided by the co-decision procedure, modified the practice of that procedure, and changed the Parliament's powers of appointment over the Commission. The new version of the co-decision procedure required both Council and Parliament to agree on legislation. In the event of non-agreement, the legislation would simply fail. Concerning the Commission, Parliament gained a power of veto over the nomination of the President of the Commission, in addition to the Commission as a whole.

Although the Treaty of Nice was agreed at the end of 2000, its modest extension to co-decision is not considered with regard to its effect on parliamentary cohesion, since it entered into force only in 2003, beyond the time period of this research.

## **1.2. Competition, Consensus, and Path Dependence**

The powers of the Parliament have increased very rapidly since 1987, and as a consequence of Maastricht in 1993 and Amsterdam in 1999, in particular. Unlike the political systems of its member states, the EU is subject to a separation of powers. In the areas where the EU has competence over regulation as well as spending, the Commission is the executive, and the Council and Parliament are the co-equal parts of the legislature, with the ECJ exercising judicial review. None of these four institutions have overlapping membership, and they are all appointed or elected separately from each other. In view of the rapid evolution of its powers, its multinational nature, and the co-existence of supranational and intergovernmental characteristics, the EU and the directly elected arm of its legislature are a unique location in which to test for the institutionalisation of consensus, in view of the fact that most of its politicians have been socialised in the largely competitive, bipolar systems of the member states.

Much of the research on the European Parliament by political scientists has assessed the impact of its increasing institutional powers. Studies have focused for example on the success with which Parliament succeeds in having its amendments accepted by the Council in legislation, or the use of its powers in the appointment process of the European Commission. However, there has been a recent emphasis on locating dimensions of party-based competition between left and right, which has concentrated overwhelmingly on roll call votes taken during the parliamentary plenaries. As the Parliament has gained more powers, so the argument goes, it has become more like a *real* Parliament and significant ideological divisions have increased.

The thesis challenges those conclusions. If the hypotheses tested in the empirical chapters are proved correct, they will show that consensus between the main political groups has withstood the increased institutional powers of the Parliament and the partial agreement between the EPP and Liberal groups that lasted from 1999 to 2004. Path dependence provides a theoretical explanation for the duration and pervasiveness of this consensus. The principle of path dependence is that once an institution is established, its initial patterns of behaviour are entrenched and become self-reinforcing. If a practice is path dependent, other more logical or cost-effective alternatives for organisation have no chance of being adopted in view of the short-term costs. Consensus was the established approach to decision making within the EEC since its foundation, and has become self-reinforced within the Parliament due to:

- the need to include the major national elites of whichever partisan tradition;
- the need to respond to external institutional constraints, such as the separation of powers or institutional change, that require agreements to be made with the other institutions and national governments;



- and the internal institutional constraints by which the significant political groups in Parliaments have to coalesce in order to secure outcomes close to their preferences.

A more polarised Parliament may make a collective gain from increased visibility and legitimacy, as well providing increased power for those within a winning coalition, however the move to a more competitive system between left and right is loaded with the risk of losing influence by being on the losing side.

This thesis contributes to the literature on legislative politics, providing a systematic analysis of consensus applied to a system characterised by multiple crosscutting cleavages. While path dependence has been applied in a general way to the institutional politics of the EU, this research tests it in greater detail with regard to a specific institution, Europe's Parliament.

### **1.3. Plan of the Thesis**

The thesis is structured as follows in the seven remaining chapters.

Chapter 2 provides a review of the literature on legislative behaviour that identifies the European Parliament as a competitive legislature composed of winners and losers, challenging these conclusions. The chapter then introduces the conditions that determine whether a legislature subject to a separation of powers in a multi-cleavage system will be consensus-based. These include the need to contain those cleavages, as well as external and internal constraints. Next, chapter 2 links the historical institutionalist theory of path dependence to the case of the durability of consensus in the European Parliament, despite otherwise logical assumptions that greater powers lead to division since there is something over which to argue. The final part of chapter

2 presents the hypotheses that test for the continuity of consensus and challenge the existing literature that suggest Parliament has become more divided in terms of left-right competition. A short explanation then follows to explain how the hypotheses will be tested during the subsequent empirical chapters. While the core literature concerning the European Parliament, party based competition, and path dependence is introduced in chapter 2, each of the empirical chapters commences with reference to existing theory concerning its subject area.

Chapter 3 focuses on roll call votes in the Parliament. It demonstrates that between 1994 and 2001, consensus continued across most policy areas, although there was some variation according to voting rules and legislative procedure, besides the policy area of a vote. The chapter starts with a summary of how the co-operation and co-decision procedures work, providing a background for the assumption that such significant powers would necessarily result in increased party-based competition. This is then covered further in a review of what we already know about legislative behaviour in the Parliament. Theory and hypotheses relating to voting behaviour are then introduced, prior to the presentation of the data and discussion of the findings in the final part of the chapter.

Chapter 4 tests a hypothesis that consensus pertains to the distribution of office within the Parliament. Since control of important positions such as chair of a committee, a leading Vice-President of the Parliament, or a policy-based co-ordinator or political group leader on a legislative committee allow for influence over policy outcomes, it may be reasonable to expect a certain amount of competition for such posts. However, the political groups practice a proportional distribution of such positions. In the first instance, the chapter introduces a theory of office distribution and explains how the hypothesis will be tested. Next, the chapter covers the

competition for the office of President of the Parliament between 1994 and 2002, before a focus on the assignments of Vice-Presidents of Parliament and policy-related committee chairs between the groups. The share of group leadership positions on each committee within the political groups is also analysed. The final part of the chapter is a section containing a statistical analysis of the uptake of office positions between the main groups and national party delegations, offering the most comprehensive view of their distribution to indicate whether there are winners and losers.

The subject of chapter 5 is the allocation of rapporteurs, who control legislative content, between and within the political groups. On the basis of theories of competition in the Parliament, it may be reasonable to suppose that there would be winners and losers in the race to secure the control of influential reports. However the chapter seeks to measure the extent to which consensus applies, by means of proportionality in the distribution of reports. The role, potential powers, and selection methods of rapporteurs are addressed in the first part of the chapter in relation to the broader theory of path dependent consensus. Data on the distribution of rapporteurs between two comparative periods, 1996 to 1998 and 1999 to 2001, then follow, before a discussion on the findings of the data, according to variables such as nationality or national party membership of individual rapporteurs at the end.

Chapter 6 addresses the use by Parliament of its powers of appointment or censure over the European Commission, and the influence it exercises, though formally only consultative, over the appointment of Executive Board Members of the European Central Bank, and the less salient Court of Auditors. The chapter tests whether the broad consensus that usually exists when exercising its powers of appointment are an effect of the separation of powers, and whether on the rarer occasions when consensus fails in this field, that can be attributed to a breakdown in the separation of powers.

The mechanisms for ratifying an incoming European Commission, or in proceeding to use the powers of censure, are analysed with respect to the cases of 1994 and 1999. At the end, the chapter concludes and applies its findings to the hypothesis of parliamentary consensus in the process of appointing or censuring other institutions, and connects this to the notion of institutionalised consensus.

The constitutional policy of the European Parliament and the hypothesis that the separation of powers leads the Parliament to seek greater powers, for which internal cohesion is necessary, is the subject of chapter 7. The chapter compares the development of constitutional policy across the Parliaments of 1994 and 1999, until the Laeken Council of December 2001 that established the Convention on the Future of Europe. There is a focus on themes that affected Parliament's capacities at constitutional agenda setting, the roles of the Institutional Affairs Committee in the 1994 Parliament and its successor, the Constitutional Affairs Committee (AFCO) between 1999 and 2001. The rest of the chapter follows constitutional developments chronologically, from the period when the Turin Council established the IGC leading to Amsterdam until the conclusion of the *post-Nice* period at Laeken.

Chapter 8 concludes the thesis. It summarises the main empirical findings, applies these to our understanding of the existing literature concerning competition in the European Parliament, as well as to the theoretical notions presented in this work that Parliament is a consensual institution that, through path dependence, has withstood challenges that may otherwise have rendered it *competitive*. The concluding chapter also addresses the question of how the findings can be applied to other legislatures and political systems; as well as suggesting a future agenda to fill remaining gaps.

## **2. Increasing Returns: Competition, Consensus, and Institutional and Partisan Change**

This chapter presents the theoretical and empirical outline of the thesis that the European Parliament has remained a consensual institution, despite expectations that increased powers would lead to greater ideology-based competition, the conditions that first led to the establishment of consensual norms allowed them to become embedded and reinforced as successive enlargements to new member states have occurred and the institutional powers of the Parliament have increased. Path dependence explains the longevity of consensus whether it applies to the approach of parties to legislation in Parliament, to accessing influential positions in the Parliament, to approving the appointment of the European Commission, or to preparing Parliament's position during the drafting of new treaties that are likely to further increase its powers. At the time of its foundation, the EU adopted both intergovernmental and supranational characteristics, underpinned by a consensus system to reconcile the potential for conflict given the presence of multinational cleavages. These have persevered and increased, in view of successive enlargements of the Union. External and internal institutional constraints have also contributed to the reinforcement of consensus in the Parliament.

The first part of this chapter introduces the key ideas in existing literature that predict a competitive party-based, winner-loser system in the European Parliament, and explains how such predictions are misplaced. The second part of this chapter addresses the factors that make the European Parliament, or any other legislature subject to a separation of powers in a multi-cleavage polity, a consensus-based institution. These were already raised in the previous chapter and encompass:

- the need for containing national and ideological divisions;
- external institutional constraints such as the separation of powers, institutional change, or a changing balance in the interests, party representation, and priorities of the other EU institutions;
- and the Parliament's internal institutional constraints such as the need to reach particular thresholds for passing legislation or being able to confront the other institutions effectively.

The third part of the chapter draws on the institutional theory of path dependence and applies it to the consensual nature of the Parliament, as a means for explaining why Parliament's new powers have not resulted in a new era of ideological competition. Reference is made to Swiss federalism as an explanatory factor for path dependent consensus in a multinational political system, characterised by a separation of powers. The fourth section presents the hypotheses to demonstrate the continuity of consensus, challenging existing literature that suggests Parliament has become more divided in terms of left-right competition, and illustrates how these hypotheses will be operationalised during subsequent chapters.

## **2.1. Challenging a Theory of Competition**

Transnational parties and political groups in the EP have evolved and responded to the pace of European integration. Parties have experienced an organisational change responding to institutional integration and the development of the policy-making process. This has accompanied a '*policy-ideology*' change lending greater coherence to transnational party policy (Hix 1995: 11-12), for they are vehicles for affecting outcomes at the European level. The political groups of the Parliament play a vital role in this network, in the formal sense of directly impacting on the legislative and appointments process and, informally, as a link between domestic parties and the

more remote, technocratic institutions. This starting point, together with quantitative data amassed from roll call votes, has led Hix, Kreppel, and Noury (2003), Hix, Noury, and Roland (2005), and Kreppel (2000) to predict greater competition between parties in the European Parliament.

Much of the existing theory on the behaviour of European parliamentarians is influenced by comparative assumptions derived from observations of the US Congress. In the American system, Cox and McCubbins (1993) identify the Congress as a legislature in a system of divided government, run by party based cartels, in which there are clear winners and losers. Given the federal system and separation of powers in the United States, it was therefore *logical* to assume that the EU political system, likewise characterised by a separation of powers, decentralised federalism, and, in most member states, by bipolarism, would develop a competitive *winners versus losers* system in its legislature. Hix (2001), Hix and Kreppel (2003), Hix, Kreppel, and Noury (2003), Hix, Noury, and Roland (2005), Kreppel (1999; 2000; 2002a), and Raunio (2000) have proceeded to seek out and identify the division of left and right as the primary division in the European Parliament. While recognising that where divisions occur, they are most likely to do so on the basis of ideology between left and right, this thesis contributes to the literature on legislative behaviour by maintaining that the European Parliament is an overwhelmingly consensual institution.

Kreppel (2000; 2002b) recognises the incentive of the groups in Parliament to vote by oversized majorities, not only to reach certain thresholds such as the absolute majority (50%+1) imposed by the EU treaties under which Parliament may have a power of amendment or veto, but also to maximise the pressure on the Council by Parliament acting in as unitary a fashion as possible. It is therefore no surprise that the

greatest consensus in Parliament is found when voting on institutional questions that have the capability of increasing Parliament's powers. However, Kreppel (2000; 2000b) also predicts that enhanced institutional powers will lead to greater division inside the Parliament, since the exercise of new powers will provide something about which to disagree. While Kreppel (2000) looks for instances of competition and finds (Kreppel 1999) that the two large groups frequently voted against each other before the elections of 1999 and ratification of the Treaty of Amsterdam, Hix, Noury, and Roland (2005) find that this has continued since 1999. However, even in policy areas where Parliament exercises substantial powers, instances of division occur in only a minority of votes.

Focusing on social and environment policy, Hix (2001) identifies strong divisions. The ELDR and nationalist UEN (Union for a Europe of Nations) groups change sides according to the liberty-authority or socio-economic cleavages and are often able to determine whether the left or right will *win* on a particular issue. Hix (2001: 664) outlines his view of the new competitive climate in the EP, whereby the legislative behaviour is mainly along left-right lines, 'where the two main party groups tend to vote against each other more than with each other', yet in over 50 percent of votes, the two main groups have continued to vote the same way. Hix, Kreppel, and Noury (2003) boldly open their assessment of the collusive or competitive nature of the Parliament with the following statement: 'We conclude that, contrary to what might be expected, the party system in the EP has become more consolidated and more competitive as the powers of the EP have increased.' They argue that increased power is likely to undermine group cohesion and change the structure of competition, since governments and domestic party leaders will want intergovernmental alliances on Council to be replicated in the EP.



The inter-institutional battle occurs along an integration rather than left-right spectrum, with both the EPP and Socialist (PES) groups preferring more EU policy to less, as seen in final votes (Hix and Kreppel 2003: 81). My data show that this has continued after 1999. Hix and Kreppel (2003: 92) find that the grand coalition of both main groups is 10 percent less likely after 1999 than in 1996, which is not in itself a finding that denotes a new era of ideological competition in the Parliament. In fact, they also find that co-operation on final votes increases by 20 percent following the 1999 elections, since it is the amendments that become more divisive. Kreppel (2000: 357) finds that the reading for legislation does not explain voting behaviour, nor do the institutional powers of the EP. Lord (1998b: 212) casts doubt on assuming that roll call votes are necessarily representative of division in the Parliament. Although they are among the more reliable of possible indicators, votes only occur when consensus could not be reached by other means between the relevant actors.

Most of the theoretical and empirical literature that predicts or identifies competition in the European Parliament focuses exclusively on the legislative voting behaviour of MEPs. Since this literature expects interactions in the Parliament to be determined by competition, if applied elsewhere the same logic would presuppose intense competition between the groups in the assignment of influential positions that determine policy outcomes, like committee chairs and rapporteurs, in the appointment or censuring of the European Commission, and in the preparation of Parliament's position with regard to increasing its own powers during IGCs. Despite the expectation of competition, the reality as shown by the empirical data is another story. The thesis demonstrates this in empirical terms, while offering some theoretical explanations for the institutionalisation of consensus in Europe's Parliament.

Within the literature, the case for consensus rather than competition in the EP is found primarily in work on the allocation of office (Benedetto 2005a; Kreppel 2002a; Mamadouh and Raunio 2003), the appointment of the Commission (Gabel and Hix 2002; Hix 2002; Judge and Earnshaw 2002; Magnette 2001; Westlake 1998) and the European Central Bank (Lord 2003), and on the EP's approach to constitutional policy (Benedetto 2005c; Hix 2002; 2005).

The rest of this chapter introduces the theory to support the case for institutionalised consensus that will accompany the empirical evidence.

## **2.2. What Makes the European Parliament Consensual?**

Competition in the European Parliament is contained by institutionalised mechanisms for consensus. This section provides a theoretical framework as to how consensus has thrived through the significant political and institutional changes of the 1990s. The significance of the changes to the powers of the European Parliament has led much of the literature to assume that political competition will increase, since being a *real* Parliament, there is now something about which the politicians can disagree.

The consensus that applies in the case of the Parliament is caused by three factors, each of whose continuation is explained by path dependence:

- The multinational, multilevel system of the EU with cross-cutting cleavages that can only be reconciled by the type of consensus that does not exclude national political elites or their representatives;
- External institutional effects, such as a separation of powers, take away the government versus opposition constraint in the legislature whose internal cohesion consequently grows, or the role of institutional change or change in partisan balance that could make ad-hoc coalitions more likely;

- Internal institutional incentives that encourage parties to collude for access to the *pork barrel* that provides office and influence on policy, which would be too costly to gain from electoral competition.

On the day of the first meeting of the European Parliament following the elections of 2004, the argument of Hans-Gert Pöttering, leader of the EPP Group, in favour of consensus between the two large groups referred to both external and internal institutional incentives. However, a method for maximising consensus in a more diverse and enlarged Union was more necessary than previously. These three factors were therefore, if not mutually interdependent, certainly self-reinforcing. The rest of this section analyses each of these three incentive structures in turn.

### **2.2.1. Consensus: A Method for Containing National and Ideological Divisions?**

Europe is characterised by multiple, cross-cutting cleavages: left versus right; North versus South; new member states versus the EU15; large states versus small states; Church versus State; Catholics versus Protestants; Federalists versus Sceptics; Urban versus Rural; and all manner of ethnic and linguistic cleavages. Consensus proves the best means for reconciling these cleavages, whether within the EP or other transnational institutions. Despite the consensus that exists between the EPP and Socialists, the left-right division tends to dominate over the others (Raunio 2000: 176), although this is because division occurs more often between, rather than within, political groups and party families.

Christopher Lord (1998b) sees the EU as poorly suited to majoritarian democracy, although consociational democracy would not be appropriate, since decisions would then need to be taken by those representing cultural-territorial segments. The EU

concentrates on problems that spill over national boundaries, developing policy whose preferences do not correlate with national divisions. Preferences are in fact aggregated within transnational cleavages, allowing decisions to be taken by actors other than member states, such as the European Parliament and European Commission. Consensus democracy is therefore the most efficient means of allowing multi-dimensional trade-offs of political preferences (Lord 1998b: 216).

Pressure for decisions in a multi-national system to ‘be passed by oversized majorities that are likely to include more nationalities and parties than simple ones’ (Hix and Lord 1997: 119), so that outcomes can be viewed as legitimate is a factor adding to cartelisation and convergence. According to Lord (1998a: 6), there is no option other than the consensual approach across political groups:

‘Stripped of adequate connections to either government or society, the federations and groups are a long way from ideal type “party politics” in which the exercise of political power is connected – and adjusted – to public opinion through competition between individual parties. Indeed the decision-making rules of the Union and the divisive impact of European issues on the national parties that comprise the federations and groups, tend to force them into a collaborative and consensual approach to party politics.’

The EP and US Congress are committee-based legislatures. In the case of the EP, this conforms to a distinctive model of consensus democracy, given the lack of a majoritarian reality at the EU level. The committees compensate for some of those constraints on the developments of normal parliamentary parties, removing the defects of majoritarian systems, while avoiding consociationalism (Lord 1998b: 204). Policy-oriented conflict can be resolved within the committee, rather than over-spilling into the plenary. Committee systems lend themselves well to power sharing in cases where it is important to avoid identifying losers. In majority systems such as that of Westminster or the US Congress, the identity of winners and losers in legislative

votes is always known. In the European Parliament, votes only take place when compromise supported by an oversized majority cannot be reached (Lord 1998b: 212).

Hix (1998a: 21) contributes to this debate by arguing that majoritarian democracy ‘would lead to subjugation of a particular societal segment – or nation in the case of the EU’, undermining the legitimacy of the Union. This is a similar analysis to that of Lijphart (1981) in favour of power-sharing in deeply divided societies. Hix (1995: 51) signals that EP elections fail to lead to the formation of a government or to public policy, the provision of which is the key function of democratic, electoral politics. As a consequence, party families operating within EU legislative politics find themselves contained in an institutional system where national and partisan interests have traditionally converged in order for legislation to pass and for political appointments to be made. In this sense, it and the other political institutions of the EU have to reach decisions in a consensual manner.

The political system with which that of the EU can best be compared is that of Switzerland. Switzerland consists of twenty-six sub-federal units or Cantons and four language groups: German, French, Italian, and Romansch. The best system for managing potential conflicts arising from these cleavages, as well as the more familiar socio-economic cleavage, has been a highly decentralised form of federalism, and the use of oversized majorities, which reflect the *magic formula* of the four-party coalition (Lanfranchi and Rüthi 1999). Besides decentralised federalism and the use of over-sized majorities in legislative politics and in the formation of the executive, the EU and Switzerland have in common several other features that necessitate consensus: a separation of powers; a collegiate executive; and a party system based on socio-economic and church-state cleavages at the time of freezing.

### **2.2.2. Consensus: The Result of External Institutional Design**

The Treaties of Maastricht and Amsterdam made significant changes to the powers of Parliament, whether by revising legislative procedures or increasing the policy areas over which Parliament has influence. We might expect such an increase in power, changing Parliament from a consultative to a decision-making body, to result in greater division or competition between the parliamentary parties. This has not been the case. The Parliament, Council, and Commission are multiparty, multinational institutions. Decisions can only be reached to implement policy in the EU if the politicians from differing competing ideological traditions in the Parliament can build consensus with at least some of the politicians in the other institutions. Costa and Magnette (2003: 8) argue that the EU system is itself path dependent, since the EP must fit in with the intergovernmental logic under which it was established in the 1950s. While in Switzerland, the multiparty, collegiate executive reflects the party balance in the legislature; the European Commission reflects the party balance in the Council. The Parliament has to work with the other two institutions, even though it cannot directly influence their composition. The lack of a clear government versus opposition dynamic and the absence of a party-based majority in any of the institutions facilitates consensus within and between them.

Before the ratification of the Treaty on European Union signed at Maastricht, Parliament was able to influence legislative outcomes only through the co-operation procedure. This was introduced under the SEA in 1987, applying to legislation establishing the Single Market. By an absolute majority, Parliament could amend legislation. If the European Commission supported this, the Council could accept it by

qualified majority vote, only being able to reject by unanimity. Tsebelis (1994) and Tsebelis and Garrett (2000) refer to this as ‘conditional agenda-setting’, conditional because the view of Parliament would prevail only in alliance with the Commission and at least one member government in order to prevent Council from unanimously blocking an amendment, while enabling it to accept the amendment by the comparatively easier method of QMV. Following the fourth direct elections to the EP in 1994, the political groups adapted to the institutional changes resulting from the ‘unconditional veto power’ of the co-decision procedure (Tsebelis and Garrett 2000: 15), and the extension of the co-operation procedure with the Council of Ministers. The co-decision procedure introduced by Maastricht provides an absolute majority in Parliament with the power of definitive veto over legislation. A lively debate focusing on whether the powers of Parliament were greater under the co-operation or co-decision procedures developed in the literature (Earnshaw and Judge 1996; Shackleton 2000; Tsebelis 1994; Tsebelis and Garrett 2000; Tsebelis et al, 2001).

Besides the introduction of the co-decision procedure, Maastricht increased the powers of the Parliament by shifting new policy areas into its remit, to be decided either by co-operation or co-decision. Tables 2.1 and 2.2 illustrate the extent of Parliament’s new powers granted by Maastricht and Amsterdam. While policy concerned with the creation of the internal market was moved from co-operation to co-decision, along with incentive programmes for education, health and the environment, new competences were transferred to co-operation. Implementation of monetary union, transport policy, environment policy, vocational training, development, Trans-European Networks (TENs), and implementation of the European Regional Development Fund were to be decided by co-operation. Cultural policy, including issues concerned with cinema production and broadcasting, as well as

Research and Development were to be decided by co-decision, but under unanimity in Council. The assent of Parliament would be required for approving structural funds, making international agreements, approving free movement of people, ratifying the appointment of the European Commission, accession to the EU, and approving a uniform electoral procedure for the EP.

**Table 2.1: Legislative powers granted to Parliament at Maastricht**

<b>Assent plus unanimity simple majority in EP</b>	<b>Co-operation plus QMV</b>	<b>Co-decision plus QMV</b>
Structural funds International agreements Free movement of people Commission Appointment	EMU Anti-discrimination on nationality Transport ESF Decisions Vocational training TENs ERDF implementation Environment Development	Free movement of workers Right of establishment Treatment of foreign nationals Mutual recognition of diplomas Treatment of the self-employed Services Harmonisation of internal market Recognition of internal market Education incentives Health incentives Consumer protection TENs guidelines Environment action programmes
<b>Assent plus unanimity absolute majority in EP</b> Accession Uniform electoral procedure		<b>Co-decision plus unanimity</b>  Culture R & D

The Treaty of Amsterdam effectively abolished the co-operation procedure in all areas other than implementation of Economic and Monetary Union. The other policy areas to which co-operation had applied were moved into the co-decision procedure. Free movement of people, and rights for citizens, migrants and the self-employed were to be decided by co-decision, along with the Council deciding by unanimity. Visa policy was to be decided under co-decision from 2004, while the possibility of extending co-decision and qualified majority voting to asylum and immigration was



also left open until 2004, subject to approval by the European Council. For the first time, the assent of Parliament was required to approve the nomination of the President of the European Commission, in advance of the Commission as a whole. Parliament would also be required to approve sanctions against a member state.

The most significant change at Amsterdam, however, was to modify the co-decision procedure. Under Maastricht, co-decision allowed Parliament to propose amendments, which Council could ignore. If Council persisted with legislation against the wishes of Parliament, only an absolute majority in Parliament voting to veto the legislation could block it. This is what some have referred to as ‘unconditional veto power’ (Tsebelis 1994; Tsebelis and Garrett 2000), suggesting that it reduces the power of Parliament with respect to the co-operation procedure which allowed Parliament the right to amend. Amsterdam upgraded the status of the Conciliation Committee convened between Parliament and Council in the event of disagreement, so that failure to agree a joint text would automatically result in the legislation falling. Both Parliament and Council can propose amendments, but neither can force them against the wishes of the other. Any compromise reached by the Conciliation Committee needs to be ratified actively by both Parliament and Council.

**Table 2.2: New legislative powers granted to Parliament at Amsterdam**

<b>Assent plus unanimity in Council with simple majority in EP, from consultation</b>	<b>Co-decision plus QMV: new power</b>
Nomination of President of Commission	Employment incentives Social exclusion Equal opportunities Public health Principles for transparency Countering fraud Customs co-operation Statistics Data protection Access to training Working conditions Visas <sup>3</sup> Asylum and immigration <sup>4</sup>
<b>Assent plus Council unanimity with absolute majority in EP: new power</b>	<b>Co-decision plus QMV from Co-decision plus unanimity</b>
	R & D
Sanctions against member state	<b>Co-decision plus QMV from co-operation plus QMV</b>
	ESF Decisions Vocational training TENs ERDF implementation Environment Development Transport Anti-discrimination based on nationality
	<b>Co-decision plus Council unanimity from assent</b>
	Free movement of people
	<b>Co-decision plus Council unanimity: new power</b>
	Citizens' rights Social security for migrants Rights of self-employed

The shifts between left and right at EP elections reinforces the consensual behaviour of MEPs from different party families, since an ideologically balanced Parliament has

<sup>3</sup> From 2004.

<sup>4</sup> From 2004, subject to unanimous decision by Council.

to contend with other institutions and governments of mixed partisan complexions. The collective interest of the EP as an institution in increasing its own power is conditioned by the convergence between the main political groups, whose national components are the main parties of government and opposition in most of the member states.

**Table 2.3: Party strengths on the Santer and Prodi Commissions**

	<b>Santer Commission</b>	<b>Prodi Commission</b>
PES	9	10
Greens	-	1
ERA	1	-
ELDR	2	2
EPP	5	6
FE	1	-
EDA-UEN	2	1

**Table 2.4: Party strengths on the European Council<sup>5</sup>**

	<b>July 1994</b>	<b>July 1999</b>
PES	5	11
ELDR	2	1
EPP	5	2
FE	1	-
EDA-UEN	2	1

The number of centre-left Commissioners increased from nine to eleven with the change from the Santer to the Prodi Commissions. Five governments headed by Socialists and by ten led by the centre-right made the appointments to the Santer Commission during the summer and autumn of 1994. Until 1999, the European Commission and EP were balanced between centre-right and centre-left, although the

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<sup>5</sup> Figures from July 1994 include the party affiliations of the Heads of Government of Austria, Finland and Sweden in January 1995; figures from July 1999 take into account the change in government in Belgium resulting from national elections in June 1999.

Socialists were the largest group in the EP and were pivotal within any agenda-setting coalition. By the end of 1999, eleven governments were led by PES member parties, three by the centre-right and one by a Liberal, Socialist ministers were members of twelve of the fifteen governments and a majority of the members of the Commission were drawn from the centre-left. However, the centre-right enjoyed a relative majority within the EP.

**Table 2.5: State of the political groups in the EP, July 1994 and their role in government and opposition<sup>6</sup>**

	EUL	Greens	PES	ERA	ELDR	EPP	EDA	FE	IEN	NA	TOTAL
Government	0	0	64	0	31	108	25	28	11	0	267
Opposition	30	26	157	21	21	63	2	0	20	17	357
Commissioner	0	0	175	2	8	65	22	28	0	0	300
No Commissioner	30	26	46	19	44	106	5	0	31	17	324
Opposition with no Commissioner	30	26	35	19	25	34	2	0	19	17	207
TOTAL	30	26	221	21	52	171	27	28	31	17	624
Vacant seats											2

The assent of the EP required for the appointment of the European Commission College and President was an important factor since the EP was more oppositional than in the past. The number of MEPs representing opposition parties, which did not have a Commissioner increased from 207 to 246, while among EPP members, this figure rose from 34 to 114 (Tables 2.5 and 2.6). MEPs whose domestic party is in opposition and without a member of the European Commission (for example the EPP delegation from Germany) are more likely to behave as opposition forces, since they have less to lose. This may explain the more hostile attitude of the EPP to the Socialists. However, this does not necessarily occur with regard to roll call votes on

<sup>6</sup> Includes the delegations of Austria, Finland and Sweden in January 1995.

legislation or to the attribution of some of the most influential positions within Parliament's internal hierarchy, apart from the parliamentary presidency, where greater consensus is found among the political groups. Any increase in competition between the groups may be due less to the changes in institutional power than to the growing strength of domestic opposition parties.

**Table 2.6: State of the political groups in the EP, July 1999 and their role in government and opposition<sup>7</sup>**

	EUL	PES	Greens	EDD	ELDR	EPP	UEN	TDI <sup>8</sup>	NA	TOTAL
Government	9	153	25	0	23	49	6	0	0	265
Opposition	33	27	23	16	27	184	15	18	17	360
Commissioner	0	147	7	0	12	105	6	0	0	277
No Commissioner	42	33	41	16	38	128	15	18	17	348
Opposition with no Commissioner	28	3	21	16	14	114	15	18	17	246
TOTAL	42	180	48	16	50	233	21	18	17	625
Vacant seats										1

If the enhanced left-wing majority on the Council at the end of the 1990s were capable of affecting policy outputs at the EU level, not least through the appointment of a left-wing majority on the European Commission, then it would be reasonable to suppose the centre-right, in opposition in most member states, would seek access to the policy process through means such as the European Parliament. If this occurred, it cannot be detected through the abandonment of consensus in the Parliament. The factionalism or lack of cohesion within EP political groups is a significant limit on the institution's abilities to act in a way comparable to that of a domestic legislature,

<sup>7</sup> This takes into account the changes in the governments of Belgium and Luxembourg resulting from national elections held the same day as the European elections.

<sup>8</sup> The TDI (Technical Group of Independent Deputies) was a group of convenience composed of some of the extreme-right and Emma Bonino's Radicals. It was dissolved in September 1999 for failing to comply with the Rules of Procedure under which political groups were required to have political affinity.

based on competition between the parties. Given the separation of powers, MEPs lack a government or opposition role. Many issues are concerned with the dimension of favouring or opposing greater integration, yet this is not really reflected in political group make-up. Groups find it easier to coalesce on EU related policy than they do on domestic policy at national level, since the cleavages according to which they identify themselves are less likely to apply at the European level. Consensus also results from the inherent weakness of transnational parties (Raunio 1997: 86). The latter have no mass membership, effectively operate as cadres, and depended financially on the EP until the European Party Statute was proposed in 2004. They have no control over the selection of candidates and have limited means for enforcing voting discipline.

The US Congress and the EP are characterised by bipartisan co-operation and divided government. Since each interest or institution has a veto power, consensus is vital. On matters of importance, where the EP diverges from the other institutions, its component political groups must take a (fairly) united approach in inter-institutional bargaining. The adaptation of the groups in forming a consensus demonstrates their strength rather than weakness (Kreppel 2000). This is particularly pertinent since the research of Heisenberg (2005: 68) and Mattila and Lane (2001) on the Council, with which Parliament has to compete but eventually coalesce, has revealed the persistence of voting by consensus, even when the treaties allow for QMV. Reasons for the continuity of consensus in the Council include the facilitation of bargaining, compensating losers and thereby retaining legitimacy at the intergovernmental level, and the avoidance of conceding too much to parochial interests that would otherwise undermine the EU. A government will only have itself recorded as being in a losing minority on Council if such a situation is less *costly* than being seen to support a measure that is unpopular domestically. If the positions of Parliament and Council

differ, only a united front by Parliament will appear convincing to a Council that is similarly united.

Content analysis of parliamentary questions by Raunio (1997: 132) also found they were less partisan than in national politics. Once again, the absence of government-opposition roles in the EP means there is less incentive to embarrass MEPs or Commissioners of differing party families. The submission of written questions is relatively free from party control (Raunio 1997: 140), their policy content being linked to the committee membership of the questioner.

The voting rules for the EP that exist in the Treaties and Parliament's Rules of Procedure determine in part the need for oversized majorities, although they do not mean that those majorities always occur. The political centre, consisting of the Socialist, Liberal and EPP groups, tends to vote together in final resolutions for the co-operation, co-decision, and assent procedures (Raunio 2000: 184) in order to have an effect on legislative outcomes. Raunio (1996) and Ladrech (1996: 295) predict that the absolute majority requirement in co-operation and co-decision forces coalitions to form, since otherwise the EP would not be able to amend legislation. However, these suppositions are not tested and are later found not to be the case. Kreppel (2000: 346; 2002a: 216) develops the argument, by suggesting that the *grand coalition* between the larger groups serves not just for reaching the absolute majority threshold, but to impress on other institutions that a real consensus exists in Parliament in favour of a measure, which is why oversized majorities form even when they are not arithmetically essential. Kreppel subsequently tests this as a formal hypothesis that:

'In the absence of an ability to successfully impact legislative outcomes, Members will join together to work toward the strengthening of the legislature as a political institution (legislative efficiency and power). Reforms will be collective goods (in that they will benefit the legislature as a whole) and will not explicitly benefit one subsection of Members over the others.'

Once institutional reforms permit legislative outcomes to be achieved, there will be competition between the Groups (Kreppel 2000: 25), because this is something over which they can actually disagree.

Although MEPs can lose their seats in elections, the likelihood of this occurring is not related to their performance, or lack of performance, within the EP, but is determined by the second order effect of European elections. Reif and Schmitt (1980) and Reif (1997) have developed this concept in the context of EP elections, characterised by the voters of larger and governing parties choosing to abstain or vote for smaller, protest parties. Although differing voter behaviour at EP elections may be influenced by Euroscepticism, these elections should be understood as national elections that are considered unimportant by the electors, and at which those who vote are likely to do so on domestic rather than European issues. The absence of a direct electoral reward or sanction for MEPs compounds their already significant distance from the public and contributes to collusion within Parliament between the party families that compete at the domestic level.

Switzerland provides the best comparative model of a consensus-driven political system, characterised by multiple crosscutting cleavages, decentralised federalism, a collegiate executive, and separation of powers. The Swiss legislature consists of a lower chamber, the National Council, elected by proportional representation, with each Canton allocated a certain number of representatives to reflect its population. The upper chamber, the Council of States, represents the Cantons equally, with each one allocated two members, although six *half Cantons* elect one representative each. The method of election for the Council of States is majoritarian. The party make-up of each chamber differs, with the populist right-wing Swiss People's Party/Democratic



Union of the Centre (SVP-UDC) and Socialists dominating the National Council, and the centrist Radicals and Christian Democrats being the largest parties in the Council of States, as a result of tactical voting by both Socialist and SVP-UDC voters to keep out the other. The two chambers have equal legislative power and can only reach consensus on legislation and the appointment of the executive by all four parties working together. Such consensus is the only way for decisions taken at the federal level to have legitimacy within Switzerland's different language groups and Cantons (Church 2004a).

Following the federal elections, a joint sitting of the 200 members of the National Council and 46 members of the Council of States elects the seven member collegiate executive, the Federal Council. Since 1943, two Federal Councillors have been elected by each of the three largest parties, with the seventh seat reserved for the SVP-UDC, which had been the fourth party until 1999 (Klöti 2001: 22). By convention, two to three seats on the Federal Council are reserved for the one-third of Swiss from outside the German linguistic group. Federal Councillors cannot be members of the legislature and, once elected, cannot be subject to a vote of no confidence during their four-year term. The Federal Council is led by one of its members who holds the office of President of the Confederation in rotation for a year, so that no government head with single executive powers exists in Switzerland (Klöti 2001: 27). Deciding by consensus and collective responsibility, the Federal Council proposes legislation pitched to be acceptable to the principal political parties in the National Council and Council of States. Analysis of roll call votes in the Swiss legislature has shown the Radicals and Christian Democrats to be the most consistent *winners*, in conjunction with either the Socialists or SVP-UDC, of which one or the other is the losing *opposition* (Kriesi 2001: 65; Lanfranchi and Rüthi 1999). The centrist parties, both of

which are smaller than either the Socialists or SVP-UDC, gain from a centripetal tendency, combined with the habit of Socialist and SVP-UDC sympathisers to vote tactically for the centrists in preference to the opposing extreme, as mentioned above.

The institution of the referendum in Switzerland is a majoritarian element that can act as a blocking mechanism against government legislation and is unique alongside the other consociational and power-sharing features (Lane 2001: 6). Federal referendums do not exist in the US, Belgium, or Germany. The threat of citizens' initiatives that lead to referendums repealing legislation further solidifies the politics of the grand coalition between the principal political parties. A wide consensus at the legislative stage minimises the likelihood of a subsequent referendum ambush.

### **2.2.3. Consensus: The Result of Internal Constraints and Incentives**

Parties and politicians wish to influence policy outcomes or access office. In majoritarian systems this happens on a winner and loser basis, as practiced in the US Congress. Congress is a highly competitive legislature, in which Democrats and Republicans compete against each other and against the Presidency. The US has a weak party system, however, in which the parties are little more than cartels for the assignment of office and the benefits of the *pork barrel*, as Cox and McCubbins (1993: 273) explain:

‘congressional parties are a species of legislative cartel. These cartels usurp the rule-making power of the House in order to endow their members with differential power (e.g., the power of committee chairs) and to facilitate and stabilize legislative trades that benefit their members. Most of the cartel's efforts are centred on securing control of the legislative agenda for its members.’

In the past, the seniority rule for allocating the chairmen of congressional committees was a means to mitigate conflict. Committees were chaired by their longest serving member, from whichever party. Members of the Congress decided to abolish this norm in 1975, which led to the committee chairmen being elected from the majority party. This resulted in increasing the hold of the parties in congress and the competitive climate from a winner-takes-all system (Cox and McCubbins 1993: 11). This was a key step in centralising power in the hands of party leaders in Congress, who also enforce voting discipline, provide incentives and reward loyalty with advantageous committee appointments (Strøm 1995: 67). When two parties face each other in Congress, this dynamic reinforces competition by quickly identifying the winners and losers.

What does the competitive case of the US Congress, which similarly operates within a system of separation of powers from the executive, mean for the distribution of assets in the European Parliament? Although consensus may be stronger between MEPs than among members of the US Congress, this is because the political groups have decided that it is the most efficient means to control resources, whether concerned with office or policy decisions. In terms of policy, if MEPs wish to re-introduce legislative amendments under the co-decision procedure, an absolute majority (more than half of MEPs) needs to vote in favour. This rises to three-fifths for second reading amendments to non-compulsory expenditure under the annual budget,<sup>9</sup> effectively requiring the large groups to collude if Parliament is to *win* the battle. In order to maintain an institutional consensus in front of an equally divided Council, the political groups have persisted in distributing leading positions like the chairs of legislative committees that affect policy outcomes according to a

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<sup>9</sup> Treaty on European Union, Article 272.4.

proportional formula. Similarly, in order to maximise the chances of increasing its powers at IGCs, the Parliament's Constitutional Affairs Committee has sought the widest consensus for the positions that it has taken on behalf of the Parliament.

Following the fourth direct elections to the EP in 1994, the political groups adapted to the institutional changes resulting from the 'unconditional veto power' of the co-decision procedure (Tsebelis and Garrett 2000: 15), and the extension of the co-operation procedure with the Council of Ministers. The Treaty of Amsterdam effectively abolished the co-operation procedure and reformed the co-decision procedure, requiring the full consent of Council and Parliament for legislation to pass. New institutional powers have allowed the EP to accomplish acts that it could not do before, setting specific hurdles and thresholds for MEPs to reach. Political groups ally in order to reach these thresholds and secure policy outcomes and the benefits of office. Their behaviour is also conditioned by significantly different political conditions at the EU and member state levels, when compared to the conditions of the US Congress. Brzinski (1995: 144) and Hix, Noury, and Roland (2005) demonstrate that, notwithstanding their weakness in other respects, EP political groups are more cohesive than parties in the US Congress. Hix (1998a: 21) cites an 'anti-Europarty critique', according to which the possibility of constructing genuine European parties is undermined, since cartelised parties lack ideology and collude with other parties in order to obtain power, weakening incentives for electoral competition.

When 'there is probably little electoral cost and high financial and policy benefits from collusion in the legislative or governmental arenas', Hix (1998b: 2) argues that convergence occurs. This happens despite the possibility of losing votes to anti-system parties on the right and left, although public opinion that lacks information on the activities of the European Parliament is unlikely intentionally to punish MEPs for

this aspect of their behaviour. At nation state level the convergence between the conventional left and right has provided space for the re-emergence of anti-system populism (Mény 1998; Taggart 1995). The inter-penetration of party and state and inter-party collusion mean that nobody is in *real* opposition except anti-system parties, which, in the context of the EP are the avowedly Eurosceptic groups (Benedetto 2005b).

In the event of a dispute on legislation, political groups will always look for consensus at the committee stage of the legislative process. In cases where this is not possible, a further consensus-based mechanism comes into play. The Conference of Presidents, a body consisting of the leaders of the political groups and chaired by the President of Parliament, gives real power to the group leaders who are able to coalesce. It controls the agenda of the parliamentary plenaries, the selection of own initiative reports by committees, and proposes administrative and internal budgetary matters to the Bureau of Parliament (Raunio 1997: 61). The Conference of Presidents also resolves division that has not been settled within the committees. It resorts to weighted voting by political group only if disagreement continues (Raunio 1997: 37). Bowler and Farrell (1999: 209) compare the European Parliament to the German Bundestag, on account of the mechanisms for building consensus. The Conference of Presidents and the method for distributing the chairs of the powerful legislative committees in proportion to representation in the chamber are distinctive features, which also exist within the German system (von Beyme 1998).

The legislative coalitions between groups extend to the appointment of office within the Parliament. The D'Hondt method of proportionality has been used to attribute the chairs of the committees, as well as posts like the fourteen Vice-Presidents of Parliament, since at least 1979 (Kreppel 2002a: 189). Group and national delegation

leaders have institutionalised powers to control appointments to key office, dependent on consensus between the larger groups in observing the rules of the game (Kreppel 2002a: 210).

The office of the *rapporteur* is a further mechanism within the EP to facilitate legislative co-operation. When a committee considers legislation or drafts a report on its own initiative, a rapporteur is appointed to work on a final text acceptable to most committee members. Successful rapporteurs promote the kind of compromise necessary for consensus across groups, act as counterweights to the powerful committee chairmen (Raunio 1997: 58) and in contentious cases negotiate on behalf of the Parliament with representatives of the Commission and Council of Ministers on legislative content. This leads to centrist convergence and the isolation of extremes (Benedetto 2005a).

Successive EU enlargements and increasing responsibilities of the EP have furthered consensus and alliance building since the late 1980s, of which one effect is the rationalisation in the number of political groups. Pro-system parties from outside the Socialist, Liberal and Christian Democrat traditions have sought to join one of the larger groups in order to further their influence on policy and gain better access to resources. The best examples of this have been the various enlargements of the EPP Group to secular Conservative parties since 1989. Jansen (1998: 24-25) observes that the PES and EPP ‘exercise a magnetic attraction to those politically close to them’. He foresees an inevitability about the enlargement capacities of both main groups.

British, Scandinavian, and Iberian Conservatives, French Gaullists and *Forza Italia* have joined the EPP on account of political affinity, in order to outvote the Socialists, but most likely because membership of one of two largest groups gives them more influence over policy outputs than they would have on their own. Even the more

Eurosceptic British Conservatives wish to influence policy outputs on issues unrelated to the cleavage between federalism and scepticism. Heterogeneous parties of the centre-right from Central and Eastern Europe confirmed their membership of the EPP Group, following the elections of 2004, for the same reasons.

If the party system at the level of European institutions is underpinned by an alliance of Socialists and Christian Democrats, beyond the need for legislative majorities, there is another reason: much of the policy competence of the EU, whether concerned with economics, agriculture, competition, the single market, or external trade, are policy areas in which Socialists find greater cohesion with Christian Democrats than with other left-wing parties. At domestic level, in countries like France, Italy and Germany, Socialists may be more cohesive with Greens and Communists, precisely because of the policy areas reserved for member states, such as education, social and employment policy, as well as a greater degree of bipolarism in national systems between centre-left and centre-right. While consensus is the norm for political interaction in the EP, competition is more likely to be found in national legislatures. Although roll call votes indicate that the main divisions within the EP are between right and left, this is only when divisions occur.

The only way to secure office and policy goals is for political groups to form alliances with each other, to avoid confrontation for the sake of it, and to make the EP's case persuasive so that it is accepted by the Council and the Commission (Kreppel 2000). Unless more attention is paid to the European level by public opinion, the second order status of the EP and its political groups will continue and will remain one of the more significant bases on which consensus in the European Parliament is constructed.

At the time of the 1994 European Parliament elections, the political complexion of the governments in Europe was mixed and grand coalitions of centre-right and centre-left held office in four member states. In the EP, divisions concerned with roles in government or opposition and with regard to European questions affected and divided the left more than the right, so that Socialist parties were pushed toward the centre and the politics of the grand coalition. Similarly, the centrist parties in Switzerland, both of which are smaller than either the Socialists or SVP-UDC, gain from the habit of Socialist and SVP-UDC sympathisers to vote tactically for the centrists in preference to the opposing extreme in majoritarian elections for the upper chamber. The model of Sartori (1976) for polarised pluralism applies in systems with a dominant centre party and lack of alternation due to the presence of a bipolar opposition, both halves of which are ‘non-coalitionable’ and prefer the governing centre to each other. In Switzerland, the bipolar *extremes* are both in government, yet the smaller centre controls the agenda. Participation in the consensual politics of the grand coalition is the only means for either of the two larger parties to achieve policy outcomes close to their preferences. By the same logic, the Greens, Radical Left EUL, and nationalist UEN groups in Parliament frequently vote the same way as the larger groups and, when they wish for them, can often influence outcomes by obtaining the authorship of legislative reports in committee (Benedetto 2005a).

Convergence and consensus have been the norm because there was nothing to be gained from competition. So far as office distribution is concerned this changed only with regard to Parliament’s presidency in 1999 (see Chapter 4). There is an assumption, based on partial data, that a decline in cohesion between groups on legislative votes has occurred (Hix and Kreppel 2003; Hix, Kreppel, and Noury 2003: 309; Hix, Noury, and Roland 2005), resulting from the allocation of enhanced policy



responsibilities to the EU institutions. With greater influence on social, economic and environment policies, there is a greater incentive for left-right competition. The widening of policy areas addressed by the EP has apparently made consistent long-term alliances more difficult to adopt, so that a case-by-case approach prevails.

Despite the contests for the Parliament's presidency in 1999 and 2002, this thesis shows that consensus remains institutionalised.

### **2.3. The Increasing Returns of Consensus**

The institutionalisation of consensus in the European Parliament is an example of what Paul Pierson (1993: 607) refers to as 'technological lock-in' applying to institutions. Despite an increase in its institutional powers and a changing partisan complexion, with increased representation for domestic opposition parties, the European Parliament has not developed an antagonistic approach within the EU. The EP is a consensual institution because of path dependence as developed by North (1990) and Pierson (1993; 1996; 2000). The factors establishing the EU as a consensual polity at the time of its foundation have been self-reinforcing, quite apart from the difficulty in establishing other forms of institutional behaviour as the norm.

Gorges (2001: 141) suggests that there is too much reliance on exogenous variables to explain change, for example the roles of changes in the economy, political leadership or ideas. Examples relevant to this thesis would be an increase in institutional powers or a change in partisan balance, leading *rationaly* and inexorably towards greater competition in place of consensus, purely because the Parliament's greater institutional powers make it more *likely* that disagreement will occur and clear winners and losers will be identified. However, there is no institutional logic in such

assumptions since the causal significance of other factors is not systematically explored. Antonio Gramsci (1975) develops a form of Marxism, which moves away from economic determinism towards understanding the use of hegemony by elites. A politically hegemonic elite can retain its dominance over political institutions, even if a different and newer elite supplants its control over the economy. Once a particular practice is embedded or path dependent, the interests that established that practice have succeeded in their exercise of hegemony.

Douglass North (1990: 99) takes this a stage further, by using the concept of ‘increasing returns’. Increasing returns, or cost-benefit, establish a particular practice, which survives even if other more efficient alternatives become available in the future. The principle of increasing returns is that despite the more efficient alternatives, the short-term cost for interests that have institutionalised themselves into behaving in a particular way, as a result of being hegemonised, is too great for that change to be a realistic option. They will therefore have an interest in protecting existing practices. North (1990: 99) explains: ‘The subjective mental constructs of the participants will evolve an ideology that not only rationalizes the society’s structure but accounts for its poor performance. As a result the economy will evolve policies that reinforce the existing incentives and organizations’. North (1990: 93) cites the QWERTY keyboard as a nineteenth century invention that, with hindsight, was neither rational nor cost-effective. However, once the first typewriters had been introduced and the first generation of stenographers trained, it was too costly for manufacturers to change the design to something more rational and cost-effective or for stenographers to retrain. Pierson (2000: 254) makes the same point by using the examples of the triumph of VHS over Betamax, Mac computers over DOS, and the

survival of the three-pin plug in Great Britain and Ireland over the two-pin plug in the rest of Europe.

In his application of path dependence to institutions, Pierson (1996: 145) explains that even suboptimal, initial institutional, or policy decisions are self-reinforcing, and encourage: ‘the emergence of elaborate social and economic networks, greatly increasing the cost of adopting once-possible alternatives and therefore inhibiting exit from a current policy path’. The law of unintended consequences (Pierson 1996: 137) is linked to path dependence, in that institutions can develop powers in a way not intended by their creators. Because of the self-reinforcing nature of these institutions, they cannot be easily curtailed once the unintended consequences are unleashed. An example of this would be the social regulation developed by the EP and European Commission, following the ratification of the SEA. Although the then governments of the EEC had unanimously accepted the SEA, only a qualified majority would be necessary to accept legislation associated with it, while unanimity would be required for the institutional powers to be reined in.

Lane (2001) applies path dependence to the case of Swiss federalism. Although Switzerland is a multi-cleavage society, this is not to say that it would not survive majoritarian government, rather that consensual, federalist, and consociational practices are embedded and supported by vested interests. While Swiss federalism and consensus provide a valid comparator for the EU, this has been evolutionary. The case of the EU has emerged more rapidly. Although the consensual outcomes may be similar, their origins differ. Switzerland has evolved via path dependence from a decentralised, militia-based system of rural feudalities and republican city-states in the middle ages, which were underpinned by direct democracy (Lane 2001: 15). Not only are Socialists and right-wing New Populists present on the federal executive, but also

the legacy of direct democracy means that at the cantonal level, the executives are multiparty, with those of cantons Ticino and Zug directly elected by proportional representation, such that otherwise antagonistic political forces are forced to coalesce. The balance between linguistic groups and markedly different political parties on the federal and cantonal executives of Switzerland is self-reinforced by the separation of powers, the frequent use of referendums inherited from the era of direct democracy, and the habit of accommodating all the cleavages in Swiss society, whether German-French, Catholic-Protestant, church-state, urban-rural, or service sector (banking or tourism) against manufacturing or agriculture. Swiss consensus is not merely a means to reconcile Canton-based differences at the federal level. Some cantons are homogeneous politically, with the Christian Democrats traditionally dominating the rural Catholic cantons, for example, while Basel City is a Socialist fiefdom. However, some of the same religious or linguistic cleavages that materialise at the federal level also divide Cantons internally. Grischun for example, is Switzerland's only trilingual Canton, divided across the German, Romansch, and Italian linguistic groups between Catholics and Protestants, such that, unusually, the majority population of the Valley of Bregaglia is composed of italophone Protestants. These characteristics have led Church (2004a: 29) to describe the country as a 'cellular mosaic'. The interest groups and the powerful cantonal administrations are familiar with power-sharing and gaining access to political influence on this basis, and so have contributed to its self-reinforcement.

Path dependence explains the institutionalisation of consensus in the European Parliament. Since its foundation, the EU has been a multi-cleavage society, in which the pressure from national governments, the Brussels bureaucracy, and industrial and agricultural interest groups exercised significant influence. This became self-

reinforcing, for as the EU enlarged, both in terms of member states from six to twenty five and official languages from four to twenty, each of the major national and linguistic groups had to be accommodated in decision-making. As the institutional powers of the EU and its Parliament increased, so do the need for consensus, whose role was to provide policy outputs that would be accepted as legitimate by as many of the national elites and organised interests as possible. Since the SEA, the agricultural and industrial interest groups have been joined by trade unions and other professional organisations, environmental interest groups, consumer organisations, and regional government representations, many of which have significant power in the member states, as well as in Brussels where they provide an under-resourced Commission with information, allowing them the potential of multiple veto players. Where it does exist, competition in the EP is organised around party cleavages that were formed long before the foundation of the EU and are perhaps no longer relevant for the powers it possesses.

One of the key theoretical ideas of path dependence is that an optimal equilibrium cannot be achieved because of the short-term costs of changing current institutions and behaviour. Although consensus may be suboptimal, it is in fact highly stable because of the short-term incentives and pay-offs of the actors involved. Politicians and media commentators call for the European Parliament to develop a *competitive two-party system*, believing that this would increase the connection between voters and politics in the EU and provide Parliament with a collective gain from increased legitimacy. However, this majoritarian alternative would not be optimal for the Parliament's groups in the short-term. If one of the two largest groups were relegated to the status of a losing opposition party the short-term costs would outweigh the benefits for the new *majority* groups, despite controlling the chairs and agendas of

parliamentary committees and content of legislative proposals. In a system where it is necessary to avoid excluding relevant national and political elites, where Parliament needs to compete against but eventually reach agreement with other multinational and multiparty institutions, and where reaching necessary internal majorities can be problematic outside coalitions, a move away from consensus would bring certain high short-term costs as opposed to uncertain, and potentially minor, long-term benefits. Tables can also be turned and a winning majority may find that it becomes a losing opposition. Political leaders like Pöttering appear to understand this, which explains the absence of a *consensus* in favour of creating a winners and losers system. The result is that the status quo persists.

The success of domestic opposition parties in the EP elections of 1999 and therefore the asymmetry of the EP's partisan composition compared to that of the Council or Commission, is what explains any competition within the EP, rather than the recent increase in its institutional powers. Notwithstanding that, limited competition for office exists within the Parliament, although it is limited to the internal election for the President of Parliament and a lack of willingness to logroll in the attribution of the chairmen of important committees. Despite the controversies surrounding the appointments to the European Commissions led by Jacques Santer and Romano Prodi, both were approved overwhelmingly by each of the larger political groups. The empirical chapters on legislative politics (Chapter 3) and the politics of constitutional reform (Chapter 7) show that political competition exists at the EU level and can be intense. However, this competition is between institutions and not just political families. The integrationist and regulatory Parliament and Commission, of whichever political complexion, tend to ally against the more intergovernmentalist Council.

## **2.4. Operationalisation and Research Plan**

While the politics of the *pork barrel* leads to intense competition in majoritarian systems such as that of the USA, it produces reinforced consensus in the EP. Although Hix, Kreppel, and Noury (2003), Hix, Noury, and Roland (2005), and Kreppel (2000) are mistaken to predict greater competition between parties in the EP, reinforced consensus can vary and does allow for limited competition to occur between parliamentary groups over certain issues, as well as less willingness to logroll in the process of appointing MEPs to influential positions. In the 1999 Parliament, the two largest groups competed in the elections for the President of the EP and the EU Ombudsman. That said, none of the groups are ever excluded from a proportional share of committee chairs on a continuous basis or from participating in policy formulation in committee. The only exception to this unwritten rule occurred during the period of 1984 to 1994 when Jean-Marie Le Pen's European Right Group was debarred from internal parliamentary positions otherwise assigned on the basis of proportionality.

The European Parliament has remained a consensual institution, whether with regard to its approach on legislation, the extent to which positions of influence on legislative outcomes are distributed between political groups, the relations which it has with other institutions, in particular the appointments process to the European Commission, and the Parliament's approach to issues of constitutional reform during IGCs which lead to an increase in its powers. This has occurred despite the increase in its powers that may rationally lead to increased competition. The consensual nature of Parliament can be ascribed to path dependence, or the embedding of consensual

practices at the time of the creation of the EU, which would now be, in any case, too costly to change.

Each of the following five chapters will test this assumption empirically. The first hypothesis, tested in Chapter 3, is that the formation of legislation by Parliament remains a consensual process across political groups, despite the victory of centre-right opposition parties in 1999.

- Hypothesis 1a: that competition between political groups did not increase significantly following the 1999 elections

However, in part due to the partisan asymmetry across the EU institutions, the behaviour of MEPs, while still broadly consensual, is less predictable, as discussed in Chapter 3.

- Hypothesis 1b: that the degree of competition and alliances will differ significantly according to policy area and procedure

Hypotheses 1a and 1b will be tested using quantitative methods for analysing the behaviour of all MEPs in all roll call votes that occurred during the whole of the 1994 Parliament and the first half of the 1999 Parliament (from July 1994 to December 2001). 5,847 roll call votes took place at this time. The analysis will, in particular, focus on the differences in voting behaviour between the differing legislative procedures under which Parliament has power: the co-operation procedure, and both versions of the co-decision procedure, before and after the ratification of the Treaty of Amsterdam, in order to test whether the varying institutional powers of Parliament constrained the behaviour of its members.



The first part of the second hypothesis tested in Chapter 4 is that consensus has continued to apply to the attribution of offices that affect policy outputs inside the Parliament, such as the chairs of the important committees.

- Hypothesis 2a: that although office competition in the European Parliament may increase slightly, with a diminished likelihood of logrolling, the D'Hondt formula of attributing positions remains intact

The EP may be more oppositional than in the past but this is due to the success of opposition parties in recent European elections rather than change in the Parliament's institutional powers. The hypothesis will be tested using statistical analysis to measure proportionality in the assignment of positions such as committee chairs between political groups and their constituent national parties. Although I do not expect the obvious identification of winners and losers in this context, it is likely that within the political groups, national delegations whose attendance records are low, who lack a high number of experts, or suffer from high turnover will be underrepresented.

The second part of the second hypothesis tested in Chapter 5 examines the continuing proportionality of the attribution of reports between the groups across the committees.

- Hypothesis 2b: reports, whether concerned with the co-decision procedure or other issues, continue to be distributed on a proportional basis between the groups, although attendance, expertise, and self-exclusion account for lack of proportionality between national delegations

Any increase in the power of opposition parties in the European Parliament will not affect the proportional distribution of legislative and non-legislative reports that have an impact on policy outcomes. Following the previous chapter, statistical analysis will

again illustrate the proportionality in the attribution of reports between different groups and nationalities over the 1994 and 1999 Parliaments.

The third hypothesis tested in Chapter 6 is that despite some grandstanding, Parliament does not choose to compete when its assent is required for the appointment of the European Commission and the members of certain other institutions.

- Hypothesis 3: that the European Parliament chooses not to use its power of assent to obstruct the appointment of the European Commission, nor does it try to use consultation procedure hearings for members of the Court of Auditors or Executive Board of the European Central Bank for the purposes of inter-institutional or internal ideological competition, while the divisions incurred through the period leading to the fall of the Santer Commission in 1999 carried significant costs

This hypothesis will be tested by analysing the confirmation hearings that took place during the 1994 and 1999 Parliaments. The votes and the debates at which members of each domestic party in the EP stated their approaches, and the events leading to the downfall of the Santer Commission in 1999 will be covered. Although there was some dissatisfaction from the Socialist Group at the initial nomination of Jacques Santer in 1994 and from some members of the EPP Group at the appointment of certain members of Romano Prodi's Commission in 1999, this was insignificant compared to what occurs during votes of confidence in national parliaments for incoming governments. Both the Santer and Prodi Commissions, as full multi-national teams, were approved in a consensual manner by the main political groups, themselves multinational.

The fourth hypothesis is tested in Chapter 7 and will focus on the broad consensus that exists in Parliament for upgrading its own constitutional status, thus illustrating

that the real political conflict regarding the EP is inter-institutional rather than intra-institutional.

- Hypothesis 4: that Parliament promotes a broad internal consensus on constitutional issues, which is in the collective interest of all EP actors so that the powers of the EP can be increased

Hypothesis 4 will be tested through a qualitative analysis of the content of own initiative reports and resolutions passed by Parliament before, during and after the IGCs that led to Amsterdam and Nice, as well as the Councils of Cologne in 1999 that established a Convention to draft the Charter of Fundamental Rights and the Council at Laeken which established the Convention to draft an EU Constitution, in order to offer a review of whether Parliament gained more than it lost on each occasion, and whether this had the consent of the main political groups.

## **2.5. Conclusion**

This chapter has introduced the theoretical and empirical research outline of the thesis. There are certain characteristics that determine whether a legislature is competitive or consensual, with the European Parliament falling into the latter category. The Parliament of the decade following Maastricht is an interesting institution in which to test these assumptions in view of the change both in its institutional powers and party political make-up with regard to the other institutions with which it needs to coalesce. The strength of consensual norms can be understood in view of the conditions that first led to their establishment, allowing them to become embedded and reinforced as successive enlargements to new member states have

occurred and institutional powers have increased, even if we would otherwise assume that such developments could undermine consensus, which has been the case for much of the existing literature on this subject. The literature of the *competitivist school* will be contrasted with the empirical evidence in each of the chapters to follow. This path dependent consensus operates at three levels: maintenance of legitimacy in a multinational political system; the role of institutional change and changing party balance over time; and the need to reach thresholds to affect policy and access resources.

Limited competition may develop within the consensual mechanisms of the Parliament, with less willingness to logroll between the groups and significant divisions concerning controversial policy areas. However, the principles of proportionality in office distribution, and voting similarity will continue to impress the case of the Parliament during disputes with the other institutions.

While Costa and Magnette (2003) and Lane (2001) apply path dependence *en passant* to the consensual systems of the EU and Switzerland, this research tests it empirically in the case of one institution: Europe's Parliament.

### 3. Consensus in Legislative Voting, 1994-2001

Significant material has already been published on legislative behaviour in the European Parliament. This chapter contributes to that debate by drawing on data since 1994, which compare the voting behaviour of the principal EP political groups, according to legislative procedure and policy area. The convergence between the PES and EPP groups was believed to be common in the 1994 Parliament, although Kreppel (2000) and Hix, Noury, and Roland (2005) already identified it as increasingly competitive. High levels of absenteeism and the constitutional requirement for amendments to be passed by an absolute majority of the Parliament's members, made convergence unavoidable for legislation to be adopted. Consequently, the Parliament as an institution had more to gain by presenting a *united front* towards the other institutions. The chapter focuses on how Parliament's behaviour in legislative politics has developed across the 1994 and 1999 Parliaments. In 1999 the centre-right won the European elections, with the Socialists excluded from an alliance to secure the Parliament's presidency. In its legislative behaviour, the EP has remained a largely consensual institution, despite the increases in its power and changes to its partisan complexion that make it reasonable to expect increased competition. The chapter tests the hypothesis that voting patterns between the major groups have remained highly consensual, although there is great fluidity in any alliance according to voting procedure and the policy area concerned. Chapters 4, 5, 6, and 7 show that in cases where MEPs decide on their own internal office holders with real power, such as influential committee chairs or rapporteurs, on appointments to the powerful multiparty, multinational European Commission, or in formulating proposals that will affect its own future powers during IGCs, there is the greatest path dependent

consensus. Although competition is tempting, the risks of *losing* are too costly. In legislative and other roll call votes, I would expect consensus between the major groups to be highest in policy areas that are contentious and over which Parliament exercises real legislative power, under co-decision. While final texts of legislation are likely to attract maximum consensus, competition is more likely to occur while elaborating amendments, which provide for the detail of legislation. On non-legislative items, or where Parliament's legislative powers are consultative, I would expect greater competition since there is nothing to lose. For the purpose of statistical analysis, the 5,847 roll call votes that occurred between 1994 and 2001 have been selected. Of all the possible forms of competition in the Parliament, roll calls are the most *controversial* and the almost exclusive focus of studies on the behaviour of MEPs until now. It is therefore surprising to find a high level of consensus between political groups in the roll call data.

In the first section of the chapter I summarise the workings of the procedures that have given Parliament legislative power since 1994. The second section reviews what we already know about legislative behaviour in the EP. The third section introduces the underlying theory and the hypotheses in greater detail. The data are presented and discussed in the fourth section, before I conclude at the end.

### **3.1. The Co-decision and Co-operation Procedures**

Hix (2001: 664) maintains that the EP is a good laboratory for understanding legislative development. It is still a new institution whose powers have rapidly increased, it contains a high number of parties, as well as multiple forces operating on MEPs, and diverse decision-making rules. The co-decision procedure introduced by

Maastricht, hereafter referred to as co-decision I, was a major innovation. It applied to legislation concerning: harmonisation of the internal market; environment action programmes; consumer protection; free movement of workers; treatment of foreign nationals; treatment of the self-employed; mutual recognition of diplomas; employment incentives; health incentives; education incentives; research and development; and culture. Under this procedure, the Commission tabled legislation to the Parliament for first reading. The Parliament could then vote to approve or amend. The Council would consider the legislation, either accepting or rejecting the Parliament's amendments or voting on its own. In most cases, the Council would vote by qualified majority, although unanimity was reserved for research and development and for culture. The legislation was approved if the Council accepted all of the Parliament's amendments without voting through any of its own. Otherwise, the legislation would return to Parliament for a second reading. At this point, the Parliament could re-impose its own original amendments or delete those of the Council by absolute majority (of at least 314 out of the 626 MEPs). The Council would then adopt its *Common Position* in second reading. It was up to the Council whether to accept the Parliament's amendments in the Common Position. If the Parliament rejected the Common Position, the two institutions would convene a Conciliation Committee, composed of a representative from each member government and an equal number of MEPs. It would try to broker an agreement, which would need to be accepted by both delegations. The Council could then accept the conciliation or just re-impose its original Common Position. The latter would then pass into law, unless the Parliament was able to vote by an absolute majority of its members to veto the directive. It is this power that Tsebelis and Garret (2000: 15) refer to as 'unconditional veto power', an argument made in particular by Moser

(1996), Crombez (1996), and Steuneneberg (1994). Notwithstanding this veto power, Tsebelis and Garret believe that the Parliament had greater power under the co-operation procedure. This gave it the ‘agenda-setting power’ (Tsebelis 1994) to influence and amend legislation, but not to resist being overruled by the Council.

While co-decision I was in operation between November 1993 and April 1999, 165 procedures were completed. Of these, 99 cases or 60 percent were completed without the Conciliation Committee (63 where the Common Position was accepted by Parliament without amendment, plus 36 where Council accepted all of the parliamentary amendments). The Conciliation Committee was convened 66 times, or on 40 percent of occasions. Of these, 63 were completed successfully (Shackleton 2000: 327). On only one occasion did Council re-impose a Common Position following a breakdown in the Conciliation Committee: the July 1994 case of the Voice Telephony Directive, which Parliament rejected by the required absolute majority. This was not because the Parliament disagreed with the proposed reforms, but because the guarantees about consulting and informing the Parliament on the directive’s implementation were regarded as insufficient. Rejection was the result of a breakdown in consensus between the two institutions.

The co-operation procedure was introduced by the SEA in 1987 and originally designed for policy concerned with creating the single market. Its scope was extended by the Maastricht Treaty, so that it applied to: Economic and Monetary Union; environment policy; development; transport; implementation of the European Regional Development Fund; Decisions regarding the European Social Fund; Trans-European Networks; vocational training; and measures against discrimination on the basis of nationality. Amsterdam transferred almost all the policy areas decided by co-operation to the new co-decision II (see below), leaving the transition to monetary



union as the sole area where it continued to apply. Co-operation gave the Commission and Parliament substantial legislative power if they were able to work together with at least one member state. The Commission would table legislation to the Parliament for the first reading. Parliament would then vote on amendments by absolute majority of its members. If the Commission endorsed these amendments, they could be accepted by the Council voting by qualified majority or rejected only by unanimity. Lack of Commission support would mean that only a unanimous Council could accept amendments. If there was not agreement between Parliament and Council, the Council could force through the legislation by voting unanimously. Acting together, Parliament and Commission could set the agenda, by making it easier for the Council to accept than reject their amendments. Building an alliance with just one member government would prevent the unanimity required in Council to force legislation past an unwilling Parliament.

Co-decision I and co-operation differed significantly from co-decision II, the reformed co-decision procedure created at Amsterdam. The additional policy areas to which co-decision II has applied since May 1999 are: free movement of people; citizen's rights; social security for migrant workers; and the rights of the self-employed. Since 2004, co-decision applies to visa policy, while Council has used the option to move immigration and asylum policy to co-decision without changing the Treaties. Co-decision I and co-operation required bipartisan convergence in order for Parliament's wishes to prevail. Obtaining an absolute majority of MEPs to amend or reject legislation is difficult, given the high levels of absenteeism among MEPs. Alliances with the members of different parties in other institutions were also necessary in these cases. Shackleton (2000) writes that resorting to a Conciliation Committee under co-decision was a sign that negotiations between Parliament and

Council had failed earlier in the legislative procedure. More could be gained from reaching an equitable agreement before the Council adopted its Common Position. Co-decision II differs in that it makes it much easier for Parliament to reject the Common Position. There are two main differences compared to co-decision I. Failure to reach agreement in the Conciliation Committee means that the draft directive falls immediately. If Parliament or its Conciliation delegation opposes the measures, this is the point at which they can apply a veto with great ease. If the Conciliation delegations of the Council and Parliament both support the draft directive, they have a free hand or the 'agenda-setting' power to draft the compromise as they wish so long as it is something that both institutions will subsequently accept. The conciliation text then returns to both institutions as a *take-it-or-leave-it* text that cannot be amended. Either the Council or the Parliament can reject the legislation by simply failing to vote in favour of it. No absolute or even simple majority to reject is required. The removal of these previous hurdles to rejecting legislation means that less consensus is needed within the Parliament. However, consensus with the Council and the parties on it is still needed if both institutions want the legislation to pass with their amendments incorporated.

Despite convergence, the most relevant cleavage within the Parliament was left versus right. The two main groups frequently voted against each other in the 1994 Parliament (Kreppel 1999) and this has continued since 1999 (Hix, Noury, and Roland 2005). Although they tended to agree on final legislative resolutions, divisions were more evident in the votes on amendments, individual paragraphs of text and own initiative resolutions tabled by party groups. This tendency increased as the 1994 Parliament progressed. Conversely, in the period after 1999, cross-party support for the final resolutions on legislation is maintained, although the left-right cleavage has

widened slightly on other votes. Continued convergence in these cases is attributable to the fact that the major party groups will prefer the proposed final texts, despite misgivings, to the status quo. The data presented later in this chapter will show that consensus remains the norm in the EP. However, where division occurs it does so according to the politics of left and right, within the EP's institutional mechanisms for consensus.

### **3.2. Legislative Behaviour in the European Parliament: What We Know Already**

The quantitative approach to charting the behaviour of MEPs and members of other legislatures has not been without critics. In studies that indicate the powers of the EP compared to the other institutions, rather than the nature of coalitions between political groups within the Parliament, Kreppel (1999; 2002b) and Tsebelis et al (2001) track the success of the EP in having its amendments accepted by the Council under the co-operation and co-decision procedures. However, Maurer (2003: 241) argues that an analysis of the substance of accepted or rejected amendments has to be made, posing problems of time constraints if researching many thousands of amendments. Earnshaw and Judge (1996: 102) warn against overestimating the explanatory value of quantitative success rates, since it is not realistic to distinguish between 'substantive' and 'propagandistic' amendments.

With regard to the analysis of roll call votes, Costa (1998: 88) suggests that the importance of informal contacts between the EP and other institutions is underestimated. The fact that many EP amendments are accepted compared to those of national parliaments can be explained by the institutional independence of the EP within the EU political system. The EP can influence legislation even before first

reading, meaning that amendments are not even necessary if it agrees with most of the proposal. Consequently, roll call votes may not display the full extent of unity or division within the EP and its political groups.

The criticisms of Earnshaw and Judge (1997), Costa (1998) and Maurer (2003), would be valid if roll call votes or amendment success were measured in isolation. However, other chapters of this thesis are largely qualitative and measure levels of the intensity of alliances or competition within the European Parliament with regard to the assignment of office and rapporteur, the EP powers of scrutiny and veto over the appointment of the European Commission, and the position of the EP on constitutional change that has increased its own powers. Alongside research of these kinds, the quantitative analysis of roll call votes presented in this chapter accounts for part of the picture of how collusive or competitive Parliament's political groups are.

In a first analysis of the data gathered under the 'How MEPs Vote' project,<sup>10</sup> encompassing over 1,000 roll call votes held between 1999 and 2000, Hix (2001: 680) identifies strong divisions between left and right, with regard to votes concerning social policy, environmental policy, and public spending. However, the number of MEPs and individual parties located within the 'Yes' or 'No' camps differed significantly according to policy area, with the Liberals voting alongside the Socialist, Green and EUL groups on the environment, asylum policy, fundamental rights and women's rights against the centre-right EPP and UEN groups, revealing a majority in the EP for left-wing policies in these areas. However, the Liberals vote against the left and with the centre-right EPP on social policy and spending. Only on external relations do the EPP and Socialists find themselves on the same side, for example on trade policy, Socialists, Liberals and EPP vote together against the more protectionist

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<sup>10</sup> Project funded by the Economic and Social Research Council, code L213 25 2019, as part of the 'One Europe or Several?' series, whose scope has been to collect and analyse every roll call vote held in the European Parliament since 1979.

Greens, Radical Left, and statist right-wingers of the UEN (Hix 2001: 681). The central location of the Liberals allows them to choose which side of the left-right divide should command a majority on which issue. Hix (2001: 684) and Kreppel (1999; 2002a; 2002b) agree that the division between left and right is the most significant in the Parliament. It is necessary to add that this is the case when the political groups actually divide, occurring in only a minority of occasions. As Hix, Noury and Kreppel (2003: 318) explain on the basis of more recent and larger datasets, the Socialists and EPP collude more than they compete, although competition may intensify according to the policy area in question.

Hix (2001: 683) and Kreppel and Tsebelis (1999) note that when an absolute majority of at least 314 out of the 626 MEPs is required, the only way to achieve this is with the grand coalition of Socialists and EPP, since both left and right have an effective blocking minority. This is not to say that when the absolute majority is required, most commonly when voting on amendments during the second reading of the co-decision procedure, the grand coalition always forms. Nevertheless, the only way for Parliament to overcome the wishes of the Council by absolute majority is for both main groups to vote the same way.

There are several reasons why we should expect that consensus predominates in the EP. Since the Parliament at best only shares law-making powers with the Council, Kreppel (2000: 346) argues that its legislative proposals and amendments have to be acceptable to the other institutions if they are to pass. Between 1999 and 2001, the EPP had a relative majority in the EP, with the Socialists enjoying relative majorities on Council and Commission. Under these circumstances, and notwithstanding the constituent agreement made between the EPP and Liberals in the Parliament of 1999, governments and MEPs of both main party families were obliged to continue co-

operation if legislation were to pass. Of course Parliament retains the option of vetoing legislation, although this would not be constructive if it is seeking to influence long-term policy outcomes. Tracking the success of EP amendments, Kreppel (2002b: 798) finds that Council and Commission are 18 percent less likely to adopt amendments when the EP is internally divided. Further to this, Kreppel (2000: 346) tells us that on the 30 to 40 percent of occasions on which the groups divide, this is due to ideological reasons, most commonly concerned with social policy. This finding is consistent with Hix (2001: 680), as well as my own data, although social policy is not the most divisive policy area.

With regard to coalition building in Parliament, the political groups had incentives to co-operate on policy when pitted against Council in the period before 1999.

Regardless of partisan majorities, Council and Parliament lie at opposite ends of the integration spectrum (Hix and Kreppel 2003: 80). A pro-integration stance by the two main groups mitigates any ideological divisions and helps to increase the influence of the EP. On the issue of policy-based amendments, Hix, Kreppel, and Noury (2003: 318) explain that the Socialists and EPP collude more than they compete, although what is vital is how parties behave on important policy issues. Other reasons for collusion listed by Hix, Kreppel, and Noury (2003: 319) comprise: ideological similarity between the main EU parties with regard to integration, since only the extremes are Eurosceptic and therefore effectively anti-system; technical rules forcing parties to vote together, for example, the absolute majority requirement needed in second reading amendments of co-decision; the collective institutional interest of the Socialists and EPP to vote together in order that the EP can gain more power.

In examining their data, consisting of all roll call votes between 1999 and 2001, Hix, Kreppel, and Noury (2003: 326) find that competition between the groups is

significant on environmental and agricultural policy, although external trade brings the Socialists and EPP together. The level of competition with regard to social and economic issues is not statistically significant. They conclude that policy preferences, internal rules of the EP, and nature of relations between the EU institutions determine the extent of collusion or competition between the groups. As the powers of the EP have grown, so have intra-group cohesion and inter-group competition (Hix, Kreppel, and Noury 2003: 327).

Hix and Kreppel (2003: 94) suggest that the real difference between the pre and post-1999 periods is how groups choose to trade on these issues. Before 1999 competition occurred on amendments to legislation, but the groups maintained a common front against Council and Commission in the final round of negotiations. Since 1999 the focus has, they argue, been on a more vigorous competition. It could be that the groups simply display less willingness to logroll than in the past.

### **3.3. Theory**

Much of the literature discussed above, some of it based on initial data from the 'How MEPs Vote' project, suggests that as the EP gains more power, ideological division opens up and the political groups within the Parliament become more competitive. Although this may occur to some degree, Parliament has remained a consensual institution due to path dependence (North 1990; Pierson 1993; 1996; 2000) and the need (Kreppel 2000: 346) to vote measures acceptable to a qualified majority of domestic party leaders in government on the Council of Ministers.

The practice of consensus is embedded in the structures of the Parliament. An unwritten rule is the D'Hondt mechanism of proportionality, used to distribute key

posts such as committee chairs between the EP's leading groups. Being a legislature in a system with a separation of powers, a majority in the EP is not beholden to supporting a government in power, as in the case of most West European legislatures. Added to this, a system in which national political elites of differing partisan complexions have to share power and agree so that legislation is passed, and the result is an embedded centrist convergence. This has survived the results of the 1999 elections in which the EPP became the largest group, the Socialists incurred significant losses, and the EPP concluded a pact with the Liberals for the distribution of office within Parliament's internal hierarchy. The institutionalisation of consensus in the EP is an example of what Pierson (1993: 607) refers to as 'technological lock-in' applying to institutions.

This is not to say that the nature of competition or consensus in the European Parliament does not alter. The behaviour of Socialists has altered beyond recognition since 1957, when most of them opposed the Treaty of Rome. However, change in this regard is evolutionary and a 10 percent increase in competitive behaviour between two groups does not mean that consensus in the European Parliament is at an end. Consensus can also be over-exaggerated. During the 1990s, when it had a minority position within the EP, the EPP Group was happy to allow legislation with a left-wing content pass at the amendment stage, in order that Parliament should approve a final text, yet in the full knowledge that such measures would be deleted by the largely centre-right Council from the Common Position.

Although Hix (2001: 664) believes that the main political groups 'vote against each other more than with each other' his initial findings that different coalitions form according to different issues are consistent with the data that I present: 'Because of



different individual and aggregate policy preferences, the EP groups are likely to have different coalition preferences on different issues' (Hix 2001: 666).

In short, extensive new powers for the European Parliament are unlikely to modify its consensual nature. The pattern of alliances or competition between Parliament's political groups may modify over time, with regard to particular procedures or policy areas. All the major groups can be expected to continue working together in legislative committees, looking for compromises that will be acceptable to the representatives of the domestic governments on Council, and to vote the same way in a majority of occasions in the Parliament's plenary.

Therefore we would expect the following:

- Hypothesis 1a: that competition between political groups does not increase significantly following the 1999 elections
- Hypothesis 1b: that the degree of competition and alliances will differ significantly according to policy area and procedure

The hypotheses are tested in the next section, which statistically analyses roll call data, subdivided according to independent variables that could predict the outcome of votes. The analysis compares the voting behaviour that takes place under the three legislative procedures that give power to the Parliament: co-operation and both versions of co-decision, in an effort to show whether the differing powers of Parliament affect voting behaviour. Comparisons are also made between the voting behaviour applying to eight different policy areas, as well as the type of items that are voted: a final or earlier reading; an amendment or a full text; or whether a simple or absolute majority is required. The use of roll call vote measurement for this purpose is

controversial, because they reveal high, though varying, levels of consensus across the differing procedures, voting rules, and policy areas. Subdividing the analysis according to these criteria also contributes to the existing literature on the legislative behaviour of the EP, which is focused overwhelmingly on roll call votes.

If hypothesis 1a is correct, then competition does not increase significantly following the elections of 1999. The data are global and subdivided according to the specificities mentioned above. The data should reveal the levels of consensual or competitive voting behaviour between the main political groups. If hypothesis 1b is correct then there will be variant consensus according to the procedure or policy area. Consensus is embedded and hypothesis 1b will reveal the circumstances that lead to procedures or specific policy areas being subject to more or less competition. We would expect the most difference in levels of consensus or competition to be determined by policy area, whether a vote is an amendment or part text, or according to whether the roll call vote was requested by a particular political group. The latter occurs if a group wishes to enforce voting discipline on its own members or reveal divisions between its competitors. The least division is likely on the basis of legislative procedure, vote rule, or reading in the legislative process. This is consistent with the notion that the greater the power of the Parliament, the more likely is consensus, since the costs of competition are enormous within a consensual system that is crosscutting and path dependent.

With a large number of cases, only logistic regressions can provide reliable indications of voting behaviour between political groups, according to policy area, legislative procedure, or voting rules in force. While the aggregate data show that in a majority of occasions the two largest groups vote the same way, regressions of this kind with a multiplicity of control variables will show whether that consensus is

skewed according to other considerations. The findings will contribute to the extensive literature that compares the relative powers of Parliament under different procedures (Earnshaw and Judge 1996; Shackleton 2000; Tsebelis 1994; Tsebelis and Garrett 2000; Tsebelis et al, 2001), while providing an understanding relevant to hypothesis 1b that the behaviour of political groups will change according to policy area or procedure.

### **3.4. Data**

The dataset that I use has been collected from the ‘How MEPs Vote’ project,<sup>11</sup> from which I have taken all 5,847 roll call votes held during the 1994 Parliament and the first half of the 1999 Parliament.<sup>12</sup>

Before analysing the frequency with which the plurality of the members of differing political groups vote with or against each other, according to differing criteria, it is useful to measure the mean percentage sizes of parliamentary majorities. If the majorities were small, this would indicate low cohesion within the large groups and Parliament as a whole. However the majorities are in fact very large. Table 3.1 illustrates the percentage sizes of the majorities. These are calculated for each vote by subtracting the percentage of MEPs in the losing minority (either voting ‘Yes’ or ‘No’), from the percentage in the winning majority, such that if 70 percent vote ‘Yes’ and 30 percent vote ‘No’, not counting abstentions, the majority is 40 percent. Majorities are at their lowest at 41.1 percent, when it comes to votes that require an absolute majority during the co-decision procedure since 1999. However, this is still a

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<sup>11</sup> Project funded by the Economic and Social Research Council, code L213 25 2019.

<sup>12</sup> 3,739 votes between July 1994 and May 1999, and 2,108 votes between July 1999 and December 2001.

very high figure and indicates something like a 70-30 split for such votes. In all other circumstances of procedure, reading, and whether it was a whole text, or part text or amendment, the mean majorities are larger. If legislative amendments, which in the second reading of the co-operation and co-decision procedures are subject to the need for absolute majorities, have relatively small majorities between 41.6 and 55.8 percent, the mean majority sizes for votes to approve final texts (once the battle for amendments has been lost and won) are larger at between 65.6 and 76.4 percent. The majority sizes for co-decision II are lower than for co-decision I and co-operation.

**Table 3.1: Mean percentage size of parliamentary majorities**

	All Votes 1994-1999	Co-operation	Co-decision I	All Votes 1999-2001	Co-decision II
Total	56.6	52.3	56.5	54.9	47.6
Absolute Majority	56.3	54.7	52.6	65.2	41.6
Simple Majority	57.7	51.0	58.4	53.9	51.1
Final Reading	55.5	51.4	74.9	57.4	54.1
Earlier Reading	58.1	52.7	56.3	53.4	47.2
Whole Text	73.1	67.8	76.4	65.6	65.9
Part Text	55.8	50.3	54.1	51.7	45.0

*n=5,847*

Table 3.2 shows that during the 1994 Parliament, the plurality of the EPP and Socialist groups voted together on 69.2 percent of occasions, actually rising, although not significantly, to 69.4 percent following the 1999 elections. Hypothesis 1a therefore appears to be correct, although it is necessary to examine the votes according to procedure and policy area in greater detail. When comparing the three

procedures under which Parliament has legislative power, the least consensus applies to the co-operation procedure from 1994 to 1999, under which the two largest groups voted together on 57 percent of occasions. This rises to 70.8 percent in votes under co-decision I during the same period. Votes on co-decision II since 1999 have been subject to allied voting by the two groups in 63.5 percent of cases, 6 percent lower than for all votes during the 1999 Parliament. It is noteworthy that, of the legislative procedures, the least consensus applied to co-operation and the most to co-decision I, which occurred during the same time period. However, it may be that the policy areas decided by co-operation as opposed to co-decision were more controversial, and it is this that results in lower consensus rather than the mechanics of the procedures themselves.

**Table 3.2: Incidence of the groups of the EPP and PES voting together according to legislative procedure, majority requirements, reading, or full or part text, across the 1994 and 1999 Parliaments**

		Procedure	All Votes	Co-operation	Co-decision I	All Votes	Co-decision II
		Period	1994-99	1994-99	1994-99	1999-2001	1999-2001
TOTAL		Voting Together	2588	146	374	1463	316
		n	3739	256	528	2108	498
		percentage	69.2	57.0	70.8	69.4	63.5
MAJORITY	absolute	Voting Together	254	44	121	173	136
		n	368	77	184	270	230
		percentage	69.0	57.1	65.8	64.1	59.1
	simple	Voting Together	2334	102	253	1290	180
		n	3371	179	344	1838	268
		percentage	69.2	57.0	73.5	70.2	67.2
READING	final	Voting Together	412	45	5	160	3
		n	628	82	6	219	3
		percentage	65.6	54.9	83.3	73.1	100.0
	other	Voting Together	2176	101	369	1303	313
		n	3112	174	522	1889	495
		percentage	69.9	58.0	70.7	69.0	63.2
TEXT	whole	Voting Together	276	17	17	271	39
		n	342	21	21	325	43
		percentage	80.7	81.0	81.0	83.3	90.7
	amendment or part	Voting Together	2311	129	357	1192	277
		n	3398	235	507	1783	455
		percentage	68.0	54.9	70.4	66.9	60.9

The absolute or simple majority voting rules have made a difference to the consensus levels of the Socialists and EPP since 1999, as well as under co-decision I before then. Before 1999, both groups voted together on 69 percent of all votes and 57 percent for co-operation votes, whichever majority rule applied. However, under co-decision I the two groups voted together on 65.8 percent of occasions under the absolute majority rule and in 73.5 percent of occasions when a simple majority applied. The requirement for an absolute majority does not lead to greater consensus between political groups, since the subjects of votes requiring an absolute majority tend to be more controversial, having already been rejected by Council following the first reading. This was also identified by the smaller majority sizes illustrated in Table 3.1. Such amendments are difficult to pass not only because of the need for an absolute majority, but also to overcome the resistance of MEPs who may feel compelled to vote with party leaders in government on the Council. Since 1999, votes requiring the absolute majority, whether for co-decision II or the assent or budgetary procedures, have been subject to lower consensus by the two groups than votes for which a simple majority is needed.

In all cases, there has been greater consensus when votes are on a complete text than on an amendment or part of a text. However, the consensus grows further for co-decision II, under which the two groups have voted together for 90.7 percent of complete texts. Table 3.1 indicates lower percentage majorities for co-decision II, by comparison with its predecessors, so taken with greater consensus *between* the groups, there is probably declining cohesion *within* the groups, particularly if MEPs from governing parties have to conform to texts approved by their party leaders in the Council. Hypothesis 1b is correct in that there is lower consensus for votes on

amendments, by their nature more controversial, standing at 54.9 percent for amendments under co-operation, compared to 81 percent for complete texts. This rises to 60.9 percent for co-decision II amendments and to 66.9 percent for all votes on amendments since 1999. Again, co-decision II is located mid-way between the low consensus point of co-operation and the high consensus point of co-decision I. A simple explanation for this would be that consensus depends not on procedure but on the policy areas decided under a specific procedure. Co-decision II takes in all the policy areas that were previously decided by co-operation and co-decision I.

The roll call votes are analysed statistically in order to show the prevalence with which the main political groups voted with or against each other, according to numerous independent variables: whether the vote took place before or after the 1999 elections, which will reveal any change in competition between the groups as a consequence to the change in representation that occurred in these elections and the increase in Parliament's powers following from the Amsterdam Treaty; whether the co-operation, co-decision I or co-decision II procedures applied; whether an absolute majority (at least 314 of the 626 MEPs) was required for the vote to pass; whether it took place in the final reading of the legislation, was a whole text or amendment or part-text; whether the vote was called by either of the two largest groups or by both of them; under which policy area the vote fell, be it economics, environment, social, external trade or development, agriculture, institutional issues (for example voting Parliament's position on IGCs) or issues internal to the EP (such as its rules of procedure). The policy issue(s) for each vote were coded, in such a way that some votes could be coded both as environment and agriculture for example, whereas many were uncoded if held on subjects like transport policy which has not been included. Economic policy encompasses single market, economic and monetary policy,



competition, and enterprise policy. For each of the independent variables, a dummy 1 or 0 was entered. Consistent with hypothesis 1b, it is expected that levels of consensus or competition may vary according to legislative procedure, policy area, or institutional requirements in question like an absolute majority threshold for a vote to succeed.

There were three dependent variables: whether the plurality of the Socialists and EPP had voted the same way (EPP+PES); whether the plurality of Liberals and Greens had voted with the plurality of the two larger groups (Super Grand Coalition); whether a left-right split had occurred, with the plurality of the Socialists and Greens voting together against the plurality of the EPP and the Liberals (Left versus Right). A dummy 1 or 0 was entered for each of the dependent variables. The findings for each of the dependent variables illustrate the extent of consensus or competition between different possible combinations of political groups. There are some very consensual or perhaps merely procedural motions that we might expect to be supported with near unanimity (the Super Grand Coalition including the Liberals and Greens), while a centrist convergence between PES and EPP, not necessarily including other groups accounts for Model 1. In a minority of perhaps more controversial issues, we would expect Model 3 (Left versus Right) to prevail. Logistic regressions illustrate the extent to which these voting combinations occurred across all votes, and according to all the variables, such as policy area of the vote, mentioned above.

Logistic regressions were calculated as below for Tables 3.3 to 3.9 to illustrate the occurrence of differing voting combinations according to the dependent dummy variables (Model 1 that the plurality of the two largest groups vote the same way is cited in this example):

*Logit<sub>i</sub> [Model 1: that EPP and PES voted the same way] =  $\alpha$  +  $\beta_1$ PARLIAMENT(1994 or 1999) +  $\beta_2$ CO-OPERATION\_PROCEDURE(Yes or No) +  $\beta_3$ CO-DECISION\_I(Yes or No) +  $\beta_4$ CO-DECISION\_II(Yes or No) +  $\beta_5$ VOTING\_RULE(ABSOLUTE or SIMPLE MAJORITY) + ...*

*Logit<sub>i</sub>* is the dependent dummy variable, in this case that the plurality of the EPP and PES groups had voted the same way.  $\beta_1$  onwards are the dummy control variables.

**Table 3.3: Logistic regression of collusive or competitive voting behaviour according to 3 models of alliance pattern, by procedure, reading, Parliament, full or part text, and policy area, 1994-2001**

	n	%	Model 1: PES+EPP Exp(B)	Model 2: Super Grand Coalition Exp(B)	Model 3: Left versus Right Exp(B)
Constant			1.142(0.059)***	-0.867(0.056)***	2.234(0.082)***
1999 Parliament	2108	36.1	-0.050(0.076)	0.257(0.072)***	0.020(0.101)
Co-operation	256	4.4	-0.244(0.148)	-0.397(0.174)**	-0.033(0.200)
Co-decision I	528	9.0	0.325(0.118)***	0.029(0.116)	-0.511(0.173)***
Co-decision II	498	8.5	0.014(0.133)	-0.147(0.130)	-0.269(0.173)***
Absolute majority	638	10.9	0.158(0.110)	0.469(0.106)***	-0.069(0.185)
Final Reading	847	14.4	0.166(0.098)*	0.028(0.094)	0.001(0.130)
Whole text	667	11.4	1.258((0.114)***	0.745(0.092)***	-1.038(0.161)***
PES Calls RCV	643	11.0	-1.021(0.92)***	-0.211(0.098)**	0.862(0.117)***
EPP Calls RCV	1219	20.8	-0.957(0.074)***	-0.269(0.077)***	0.819(0.096)***
Both Call RCV	120	2.1	-1.792(0.206)***	-0.958(0.241)***	1.049(0.258)***
Economic	577	9.9	-0.295(0.103)***	-0.533(0.111)***	0.702(0.126)***
Environment	860	14.7	-0.623(0.093)***	-0.435(0.099)***	0.295(0.130)**
Social	250	4.3	-0.364(0.145)**	-0.507(0.162)***	0.565(0.180)***
Trade/Development	303	5.2	0.117(0.150)	-0.353(0.141)**	0.102(0.198)
Agriculture	413	7.1	-0.607(0.128)***	-0.098(0.130)	0.224(0.177)
Institutional	726	12.4	0.637(0.110)***	0.376(0.090)***	-0.627(0.164)***
Internal to EP	164	2.8	0.205(0.195)	0.455(0.168)***	-0.268(0.284)
Nagelkerke R <sup>2</sup>			0.116	0.050	0.067
Predicted			4051	1774	734
% Correct			69.3	30.3	12.6

N=5847. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

Standard errors in parentheses.

Dependent variables illustrated by the three models.

Model 1: PES and EPP vote the same way, Model 2: PES, EPP, ELDR and Greens vote the same way (super grand coalition), Model 3: PES and Greens vote against EPP and ELDR (Left-Right division).

Table 3.3 shows a binary logistic regression of the possible voting combinations between groups, according to all the independent variables listed above. Table 3.2 provided a simple explanation of voting behaviour between the EPP and Socialist groups only. Over both Parliaments, the two groups have controlled between 62 and 66 percent of the seats in Parliament (Tables 2.5 and 2.6), making them in some sense the only relevant players. However, the rest of this section also considers the role of the pivotal Liberal Group and the Greens. Although they have not been consistently the third and fourth largest of the groups, their policy stance is consistent and they are considered among the permanent players in the EP system.

A small negative coefficient of  $-0.050$ , though with a standard error of  $0.076$  shows that voting alliances of the EPP and Socialists on their own, were less common after 1999, although without statistical significance. Although this indicates competition in comparative terms, it is not to say the majority of such votes are subject to competition. Voting combinations including the four main groups are more common since 1999 and statistically so. The coefficient is  $0.257$ , with a small standard error of  $0.072$  indicating a lack of variance, and a beta exponential of  $1.29$  showing that the super grand coalition has been 29 percent more likely since 1999 than before. This shows that Greens may have played a less anti-system role in the EP in recent years. Table 3.2 revealed that the most consensual of the legislative procedures (at least with regard to the EPP and Socialists) was co-decision I before 1999 and indeed this is matched in Table 3.3 by a positive and statistically significant coefficient of  $0.325$ , a standard error of  $0.118$ , and beta coefficient of  $1.38$ , indicating that the two groups were 38 percent more likely to vote together than when other procedures applied. When considering the likelihood of the super grand coalition forming, both co-operation before 1999 and co-decision II since 1999 had negative coefficients,

statistically significant in the case of co-operation, with only co-decision I having a small though positive coefficient. The requirement for an absolute majority makes consensus more likely, although not significantly so in the case of the two largest groups on their own. However, the absolute majority requirement coincides with the tendency of all four major groups (including the Greens) to vote together and is statistically significant, with a larger positive coefficient of 0.469, standard error of 0.106, and beta exponential of 1.60. Votes that are in final reading or that are whole texts are likely to gain greater consensus, including that of the Liberals and Greens. Any group or at least 32 MEPs, can call a roll call vote. When the Socialists, EPP, or both groups call a vote, then it is most likely to be divisive and to engender full left versus right alliances. If a small group calls a vote, consensus is more likely. In terms of policy, more divisiveness occurs on economic and environment policy than on social policy, although social policy is also divisive. Agriculture is not consensual either. External Trade and Development are subject to consensus when only the EPP and Socialists are considered, but this disappears once the Liberals and Greens join the equation. Institutional affairs internal to the EP are more consensual across groups. Alliances of the left versus right are most likely on economic and social policy, and statistically most unlikely on institutional issues. The positive coefficient for Model 3 (Left versus Right) with regard to competition in economic policy is a high 0.702, with a standard deviation of 0.126, and beta exponential of 2.02, indicating that left-right competition on economics is 102 percent more likely than in other policy areas. With regard to social policy, this coefficient is a slightly lower 0.565, though with a comparatively higher standard error at 0.180 indicating greater variance, and a beta exponential of 1.76. By contrast, left-right competition, extremely unlikely on institutional issues, has for this area a large negative coefficient at  $-0.627$ ,

a standard error of 0.164, and a beta exponential of 0.53, indicating that competition on institutional questions is 47 percent less likely than for other issues. Already hypothesis 1b that alliances or competition between groups in an increasingly complex EP vary according to policy, decision-making rules, and the groups in question is proving to be accurate.

Table 3.4 shows the same set of variables applied only to the 256 roll call votes that took place under the co-operation procedure during 1994 to 1999. None of these covered external trade, development, agriculture, institutional affairs, or issues internal to the EP. Tables 3.2 and 3.3 revealed that co-operation was the least consensual of the three legislative procedures examined. Under co-operation, the absolute majority has a positive coefficient of 1.476 and standard error of 1.172 for combinations of the EPP and Socialists voting together (Model 1) and for the super grand coalition (Model 2) of 19.670 with an enormous standard error of 17.837 indicating significant variance. The relatively small number ( $n=77$ ) of absolute majority roll call votes held under the co-operation procedure explains this. The coefficients were not statistically significant, but indicated that consensus was more likely when absolute majority voting was required. The beta exponential revealed that the super grand coalition was 34 million times more likely to form on the occasion of the absolute majority requirement. Final reading votes were much more likely to be competitive while votes on whole texts as opposed to amendments were predictably more consensual. When both main groups together called a vote, this made an alliance of Socialists and Greens voting against EPP and Liberals 915 million times more likely, according to the beta exponential. When Socialists called a vote without the EPP, this made consensus between the groups statistically unlikely by a negative coefficient of  $-1.164$  and standard error of 0.346 indicating low variance. When the

EPP alone called a vote, the result was to make consensus with the Liberals and Greens much less likely than with the Socialists alone, with respective and statistically significant coefficients of  $-1.074$  and  $-0.703$ . The super grand coalition was significantly less likely on environment policy than on social and economic policies.

**Table 3.4: Logistic regression of collusive or competitive voting behaviour under the co-operation procedure, by reading, full or part text, and policy area, 1994-1999**

	n	%	Model 1: PES+EPP	Exp(B)	Model 2: Super Grand Coalition	Exp(B)	Model 3: Left versus Right	Exp(B)
Constant			0.980(0.306)***	2.66	-0.813(0.324)**	0.44	-1.945(0.415)***	0.14
Absolute majority	77	30.1	1.476(1.172)	4.38	19.670(17837.68)	34M	-0.072(1.175)	0.93
Final Reading	82	32.0	-1.382(1.163)	0.251	-19.216(17.837)	0.00	1.083(1.187)	2.95
Whole text	21	8.2	1.401(0.603)**	4.06	0.839(0.543)	2.31	-1.055(1.073)	0.35
PES Calls RCV	65	25.4	-1.164(0.346)***	0.31	-0.659(0.417)	2.50	0.067(0.463)	1.07
EPP Calls RCV	42	16.4	-0.703(0.380)*	0.49	-1.074(0.550)*	0.34	0.006(0.540)	1.01
Both Call RCV	2	0.8	-21.943(28237.3)	0.00	-20.165(28288.6)	0.00	22.937(28308.35)	915M
Economic	9	3.5	-0.499(0.763)	0.61	0.535(0.815)	1.71	0.866(0.926)	2.38
Environment	138	53.9	-0.615(0.311)**	0.54	-0.944(0.364)***	0.39	-0.551(0.435)	0.58
Social	11	4.3	-0.062(0.671)	0.94	-0.964(1.094)	0.382	0.932(0.764)	2.54
Nagelkerke R <sup>2</sup>			0.128		0.113		0.129	
Predicted			146		51		39	
% Correct			57.0		19.9		15.2	

*N*=256. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

Standard errors in parentheses.

*M* denotes million.

Dependent variables illustrated by the three models.



**Table 3.5: Logistic regression of collusive or competitive voting behaviour under co-decision I, by reading, full or part text, and policy area, 1994-1999**

	n	%	Model 1: PES+EPP	Exp(B)	Model 2: Super Grand Coalition	Exp(B)	Model 3: Left versus Right	Exp(B)
Constant			1.612(0.202)***	5.02	-0.706(0.170)***	0.49	-2.395(0.276)***	0.09
Absolute majority	184	34.8	-0.211(0.213)	0.81	0.178(0.218)	1.19	-0.185(0.322)	0.83
Final Reading	6	1.1	0.711(1.11)	2.04	0.090(0.887)	1.09	0.851(1.125)	2.34
Whole text	21	4.0	0.697(0.594)	2.01	0.145(0.533)	1.16	-1.055(1.054)	0.35
PES Calls RCV	68	12.9	-0.328(0.295)	0.72	0.389(0.295)	1.47	0.596(0.418)	1.81
EPP Calls RCV	95	18.0	-0.286(0.265)	0.75	0.204(0.275)	1.23	0.580(0.364)	1.79
Both Call RCV	9	1.7	1.045(1.079)	2.84	0.753(0.695)	2.12	0.684(1.100)	1.98
Economic	83	15.8	-1.293(0.285)***	0.27	-1.629(0.385)***	0.20	0.663(0.381)*	1.94
Environment	169	32.0	-0.695(0.244)***	0.50	-0.422(0.226)*	0.66	-0.298(0.385)	0.74
Trade/Development	5	0.9	4.513(9.928)	91.23	0.229(0.933)	1.26	-4.724(16.361)	0.01
Agriculture	43	8.1	-1.460(0.353)***	0.23	-1.068(0.437)**	0.34	-0.036(0.577)	0.96
Nagelkerke R <sup>2</sup>			0.110		0.081		0.046	
Predicted			374		149		52	
% Correct			70.8		28.2		9.8	

*N=528. \* p<.1, \*\* p<.05, \*\*\* p<.01.*

*Standard errors in parentheses.*

*Dependent variables illustrated by the three models.*

**Table 3.6: Logistic regression of collusive or competitive voting behaviour under co-decision II, by reading, full or part text, and policy area, 1999-2001**

	n	%	Model 1: PES+EPP	Exp(B)	Model 2: Super Grand Coalition	Exp(B)	Model 3: Left versus Right	Exp(B)
Constant			0.601(0.260)**	1.82	-0.402(0.253)	0.67	-1.480(0.331)***	0.23
Absolute majority	230	46.2	0.165(0.220)	1.17	-0.263(0.229)	0.77	-0.157(0.302)	0.85
Final Reading	3	0.6	4.588(12.837)	98.34	-0.423(1.283)	0.66	-6.704(57.499)	0.00
Whole text	43	8.6	1.778(0.563)***	5.92	0.546(0.368)	1.73	-0.757(0.650)	0.47
PES Calls RCV	48	9.6	-0.276(0.365)	0.76	0.131(0.351)	1.14	0.117(0.487)	1.12
EPP Calls RCV	129	25.9	0.225(0.235)	1.25	0.388(0.236)	1.47	-0.168(0.326)	0.85
Both Call RCV	4	0.8	-0.800(1.207)	0.45	-0.421(1.189)	0.66	-7.216(48.662)	0.00
Economic	51	10.2	1.420(0.531)***	4.14	-0.205(0.366)	0.81	-1.125(0.666)*	0.32
Environment	216	43.4	-0.840(0.252)***	0.43	-0.549(0.248)**	0.58	-0.208(0.331)	0.81
Social	65	13.1	-0.356(0.339)	0.70	-1.285(0.393)***	0.28	-0.375(0.471)	0.69
Agriculture	14	2.8	-1.008(0.621)	0.36	-0.147(0.595)	0.86	0.754(0.672)	2.13
Institutional	35	7.0	2.934(1.047)***	18.80	-1.177(0.515)**	0.31	-7.727(16.843)	0.00
Nagelkerke R <sup>2</sup>			0.216		0.076		0.073	
Predicted			316		151		62	
% Correct			63.5		30.3		12.4	

N=498. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

Standard errors in parentheses.

Dependent variables illustrated by the three models.

The same set of independent variables are applied to the 528 votes that took place under co-decision I between 1994 and 1999, which Tables 3.2 and 3.3 reveal was the most consensual legislative procedure of the three examined. These roll call votes exclude social policy, which was decided under co-operation until 1999. Table 3.5 shows that a negative, but not statistically significant, coefficient of  $-0.211$ , but with a comparatively large standard error of  $0.213$ , indicates that votes requiring an absolute majority were less consensual between the Socialists and EPP. By the same token, alliances of left versus right were less likely in the case of the need for an absolute majority, with a coefficient of  $-0.185$  and comparatively large standard error of  $0.322$ , though without statistical significance. Lower levels of consensus, all statistically significant, were shown in agriculture, economics and to a lesser extent the environment, with respective coefficients of  $-1.460$ ,  $-1.293$ , and  $-0.695$  and comparatively low respective standard error of  $0.353$ ,  $0.285$ , and  $0.244$ . However, only on economics did a left-wing alliance appear likely to vote against a right-wing alliance.

The 498 votes held under co-decision II from July 1999 to December 2001 show that consensus across the two main groups is likely when an absolute majority is required, although not statistically significant (Table 3.6). The formation of the super grand coalition is unlikely when an absolute majority is required, as demonstrated by a negative coefficient though without statistical significance. When a whole text is voted through, often at the conclusion of a parliamentary reading before being sent onto the Council, the incidence of EPP and Socialists voting together is very high, with a coefficient of  $1.778$  significant at below  $.01$ , and with a low variance indicated by the standard error of  $0.563$ . The beta exponential of  $5.92$  reveals that, in the supposed era of competition in the European Parliament following the election of

Nicole Fontaine as President (see Chapter 4), the EPP and Socialists are more likely to ally when voting on whole texts in co-decision by 492 percent than they are on other votes. Significant consensus on economic policy also applied to the two large groups with a statistically significant coefficient of 1.420, a standard error of 0.531 and beta exponential of 4.14, a notable difference compared to the competition on economic policy under co-decision I. Although the super grand coalition remained unlikely to form on economic policy, this had fallen compared to co-decision I. Significant division on environment policy with regard to the Socialists and EPP was overtaken by that on social policy when considering the likelihood of coalitions including the Liberals or the Greens. While the coefficient for Model 1 (EPP+PES) on environment policy was  $-0.840$ , with a standard error of 0.252 revealing limited variance, the negative coefficient for the super grand coalition fell to a more measured  $-0.549$ , with a standard error of 0.248. While a negative, but not statistically significant coefficient applied to Model 1 with respect to social policy, this increased to a significant  $-1.285$ , with a standard error of 0.393, for the super grand coalition. Of the four largest groups, the EPP was least likely to support a pro-environmental majority in the EP, with the Greens likely to support suboptimal compromises and the Liberals usually being located on the *left* in terms of environmental legislation. Social policy is an area in which the Christian Democratic core of the EPP usually supported minimum regulation along with the Socialists, while the Greens and Liberals respectively outflanked the other groups on the left and right in terms of their preferences.

Similar binary logistic regression models were run according to policy area: economic; environment; social. This was repeated neither for external trade, development or agricultural policies, nor for institutional affairs or issues internal to the EP, since few votes are held in these areas under the co-operation or co-decision

procedures. The 577 votes connected with economic policy, including single market, competition, and enterprise, held between 1994 and 2001, indicate a significant shift away from consensus between the two large groups after 1999, with a coefficient of  $-0.602$  and standard error of  $0.216$  (Table 3.7). The beta coefficient of  $0.55$  reveals that consensus was 45 percent less likely after 1999 than before. Paradoxically, the super grand coalition was marginally more likely after 1999, although this was not statistically significant. With regard to co-decision II, by comparison with co-operation and co-decision I, there was greater consensus notwithstanding its fall for all votes after 1999. The positive coefficient for co-decision II was statistically significant and high at  $2.467$ , with a standard error of  $0.546$  indicating limited variance in relative terms. The beta exponential of  $11.78$  revealed that the EPP and Socialists were ten times more likely to vote together when co-decision II applied than in other votes on economics. The super grand coalition was also more likely to form for co-decision II after 1999 by a statistically significant positive coefficient of  $1.420$ , with a measured standard error of  $0.390$ . The difference in voting behaviour on economic policy since 1999, according to whether legislative powers under co-decision II apply or not, is therefore remarkable and was not even predicted under hypothesis 1b. In this we can conclude that increased institutional powers increase the levels of consensus on issues where they apply. For economic policy, consensus between groups is less likely when the absolute majority requirement applies, at a statistically significant  $-1.057$  and standard error of  $0.426$  for Model 1 and  $-2.333$ , with standard error of  $0.666$  for the super grand coalition. By contrast, the same requirement is linked to greater consensus for environment and social policies.

**Table 3.7: Logistic regression of collusive or competitive voting behaviour on economic policy, by procedure, reading, Parliament, and full or part text, 1994-2001**

	n	%	Model 1: PES+EPP	Exp(B)	Model 2: Super Grand Coalition	Exp(B)	Model 3: Left versus Right	Exp(B)
Constant			1.103(0.193)***	3.01	-1.441(0.212)***	0.24	-2.089(0.251)***	0.12
1999 Parliament	309	53.6	-0.602(0.216)***	0.55	0.147(0.239)	1.16	0.973(0.266)***	2.65
Co-operation	9	1.6	-0.671(0.546)***	0.51	0.598(0.737)	1.82	0.610(0.846)	1.84
Co-decision I	83	14.4	-0.171(0.375)	0.84	-0.007(0.426)	0.99	0.093(0.490)	1.10
Co-decision II	51	8.8	2.467(0.546)***	11.78	1.420(0.390)***	4.14	-2.175(0.649)***	0.11
Absolute majority	63	10.9	-1.057(0.426)**	0.35	-2.333(0.666)***	0.10	0.193(0.553)	1.21
Final Reading	23	4.0	0.517(0.509)	1.68	1.384(0.444)***	3.99	-0.799(0.665)	0.45
Whole text	69	12.0	0.933(0.341)***	2.54	0.115(0.307)	1.12	-0.671(0.399)*	0.51
PES Calls RCV	83	14.4	-1.088(0.272)***	0.34	-0.076(.308)	0.93	1.294(0.291)***	3.65
EPP Calls RCV	136	23.6	-0.493(0.227)**	0.61	0.235(0.256)	1.27	0.354(0.273)	1.43
Both Call RCV	13	2.3	-1.380(0.629)**	0.25	-0.333(0.714)	0.72	2.028(0.644)***	7.60
Nagelkerke R <sup>2</sup>			0.144		0.111		0.140	
Predicted			370		131		120	
% Correct			64.1		22.7		20.8	

N=577. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

Standard errors in parentheses.

Dependent variables illustrated by the three models.

**Table 3.8: Logistic regression of collusive or competitive voting behaviour on environment policy, by procedure, reading, Parliament, and full or part text, 1994-2001**

	n	%	Model 1: PES+EPP	Exp(B)	Model 2: Super Grand Coalition	Exp(B)	Model 3: Left versus Right	Exp(B)
Constant			0.667(0.151)***	1.95	-1.222(0.170)***	0.29	-1.750(0.203)***	0.17
1999 Parliament	321	37.3	-0.538(0.256)**	0.58	-0.238(0.301)	0.79	0.240(0.339)	1.27
Co-operation	138	16.0	-0.363(0.236)	0.70	-0.716(0.306)**	0.49	-0.393(0.340)	0.68
Co-decision I	169	19.7	0.240(0.236)	1.27	0.226(0.250)	1.25	-0.724(0.369)**	0.48
Co-decision II	216	25.1	-0.176(0.272)	0.84	0.396(0.315)	1.49	-0.108(0.368)	0.90
Absolute majority	242	28.1	0.182(0.197)	1.20	0.107(0.215)	1.11	-0.529(0.299)*	0.59
Final Reading	98	11.4	-0.344(0.258)	0.71	0.237(0.298)	1.27	0.798(0.332)**	2.22
Whole text	67	7.8	1.059(0.308)***	2.88	0.418(0.292)	1.52	-1.229(0.535)**	0.29
PES Calls RCV	83	9.7	-0.872(0.249)***	0.42	-0.147(0.290)	0.86	0.300(0.358)	1.35
EPP Calls RCV	147	17.1	-0.140(0.197)	0.87	0.126(0.222)	1.13	0.236(0.271)	1.27
Both Call RCV	18	2.1	-0.375(0.508)	0.69	-0.214(0.581)	0.81	0.131(0.774)	1.14
Nagelkerke R <sup>2</sup>			0.070		0.026		0.049	
Predicted			508		205		114	
% Correct			59.1		23.8		13.3	

*N=860. \* p<.1, \*\* p<.05, \*\*\* p<.01.*

*Standard errors in parentheses.*

*Dependent variables illustrated by the three models.*

**Table 3.9: Logistic regression of collusive or competitive voting behaviour on social policy, by procedure, reading, Parliament, and full or part text, 1994-2001**

	n	%	Model 1: PES+EPP	Exp(B)	Model 2: Super Grand Coalition	Exp(B)	Model 3: Left versus Right	Exp(B)
Constant			1.160(0.253)***	3.19	-1.002(0.255)***	0.37	-2.066(0.327)***	0.13
1999 Parliament	126	50.4	-0.036(0.391)	0.96	1.137(0.441)**	3.12	0.372(0.428)	1.45
Co-operation	11	4.4	0.492(0.722)	1.64	-0.502(1.12)	0.61	-0.025(0.777)	0.98
Co-decision II	65	26.0	-0.583(0.461)	0.56	-1.449(0.545)***	0.23	-1.034(0.595)*	0.36
Absolute majority	16	6.4	1.875(0.765)**	6.52	0.278(0.772)	1.32	0.557(0.828)	1.75
Final Reading	25	10.0	-0.300(0.520)	0.74	-1.249(0.655)*	0.29	0.812(0.530)	2.25
Whole text	29	11.6	1.553(0.536)***	4.72	0.001(0.573)	1.00	-1.693(0.798)**	0.18
PES Calls RCV	32	12.8	-1.960(0.487)***	0.14	-1.085(0.627)*	0.34	1.350(0.520)***	3.86
EPP Calls RCV	58	23.2	-1.835(0.366)***	0.16	-1.806(0.544)***	0.16	1.480(0.408)***	4.39
Both Call RCV	6	2.4	-1.428(1.001)	0.24	1.002(0.926)	2.72	-4.260(14.319)	0.01
Nagelkerke R <sup>2</sup>			0.230		0.146		0.191	
Predicted			155		55		47	
% Correct			62.0		22.0		18.8	

*N=250. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .*

*Standard errors in parentheses.*

*Dependent variables illustrated by the three models.*



The 860 votes connected to environment policy from 1994 to 2001 (Table 3.8), including public health and consumer regulation, show that lower consensus has occurred between the Socialists and EPP since 1999, with a significant coefficient of  $-0.538$  and a standard error of  $0.256$ . With regard to the Liberals and Greens, this is not significant, nor is it with regard to a similarly negative coefficient applying to co-decision II. A left versus right division (Model 3) was discernible, but without statistical significance. A notable difference in levels of consensus on environment policy occurs in the 1994 Parliament, where lack of consensus between the four largest groups is statistically significant under the co-operation procedure, with a coefficient of  $-0.716$  and standard error of  $0.306$ . Consensus between the four largest groups occurred under co-decision I. There is no significant left-right competition on environment policy, except during final readings, while consensus is likely with regard to whole texts rather than amendments. When the Socialists call a roll call vote without the EPP, either to discipline their own members or reveal the divisions of their opponents, consensus with the EPP is much lower than if other combinations of groups had called the vote. The significant coefficient is at  $-0.872$ , with a restrained standard error of  $0.249$ .

The 250 votes on social policy, from 1994 to 2001, show increasing competition between the Socialists and EPP and the development of left versus right competition (Model 3) after 1999, although this is not statistically significant. However, the super grand coalition is statistically more likely after 1999, by a coefficient of  $1.137$ , relatively large standard error of  $0.441$ , and beta exponential of  $3.12$ . The latter reveals that the super grand coalition, including the Greens, was more than three times as likely to form since 1999 than before, which may reveal something about the less anti-system behaviour of the Greens in recent years. However, this does not extend to

voting behaviour under co-decision II since 1999, over which the super grand coalition is statistically less likely to occur, with a rather large coefficient of  $-1.449$  and moderate standard error of  $0.545$ . While a smaller and insignificant negative coefficient applies to consensus between the two largest groups under co-decision II, structured alliances of left versus right (Model 3) are also unlikely, with a statistically significant coefficient of  $-1.034$  and standard error of  $0.595$ . Where consensus lacks, there is also a lack of discipline to form structured competitive alliances between right and left, probably because the EPP and Socialists will vote together with either the hyper-regulatory Greens or de-regulatory Liberals. If either the Socialists or the EPP call a vote on social policy, competition is statistically likely to occur, however the likelihood of competition is not statistically significant if both groups call a vote. The absolute majority requirement increases the likelihood of consensus between EPP and Socialists, significant at below the .05 point, and this applies equally to the super grand coalition but without statistical significance.

### **3.5 Discussion**

Among the procedures, the most consensus is found in co-decision I, followed by co-decision II and co-operation, whether with regard to Model 1 (EPP+PES) or Model 2 (the super grand coalition). With regard to policy, patterns change according to alliance possibility. The most consensual policies are institutional and constitutional affairs, issues internal to the EP, and external trade or development. When considering just the EPP and the Socialists, the least consensual is environment policy, although this is overshoot by yet weaker consensus on economic or social policies in alliances

that may include the Liberals and Greens. This evidence is sufficient to prove hypothesis 1b correct.

Consensus rather than competition has predominated throughout the 1994 Parliament and the first half of the 1999 Parliament. Since 1994 the two largest groups have voted the same way in 69 percent of roll call votes. Even the lowest point of consensus at 54 percent between the two groups in votes on amendments or in the second reading under the co-operation procedure, is over the 50 percent mark. Co-operation was found to be the least consensual procedure, while co-decision I (held during the same Parliament) was the most consensual. Co-decision II is located midway between the two. On 61 percent of co-decision II amendments, the plurality of the two largest groups vote together, rising to 67 percent of amendments or part-texts held under all procedures at the same time. The two largest groups vote together on 90 percent of complete texts held under co-decision II. On this basis, it would seem that consensus hardly diminished after the 1999 elections, indicating that hypothesis 1a is correct.

A more detailed and interesting evolution has occurred when comparing the three legislative procedures and the eight selected policy areas, against a variety of coalition formulae that do not merely include the Socialists and EPP. This indicates that levels of consensus and competition within a complex legislature vary significantly according to procedural rules and policy areas, so that hypothesis 1b is also correct.

The need for a vote to be passed by an absolute majority of MEPs is an unpredictable variable in voting behaviour. It can be subject to more or less consensus, often with statistical significance, according to procedure and policy area. However this requirement in fact does contribute to, rather than undermine, greater

consensus between the groups, with regard to environment and social policy, although not with regard to economic policy.

On social and environment policy, consensus has marginally declined since the 1999 elections. On environment policy, the Socialists and EPP show statistically significant lack of consensus, while the super grand coalition was likely to form under all procedures except co-operation, presumably because the Greens were dissatisfied with what they viewed as a lack of progress on environmental issues, much of which was still decided under co-operation until 1999. On social policy, the Greens are the most left-wing group and the Liberals are the most right-wing group, both undermining the relatively high consensus between the EPP and Socialists on this issue. Indeed the EPP and Socialists alone are more cohesive on social policy than on environment or economic policy. This must be due to a consensus between the Socialists and Social Christian core of the EPP for minimum social regulation, opposed both by the neo-liberals of the Liberal Group for being over-regulatory and by the Greens for being under-regulatory.

When considering all the votes on economic policy, consensus between the EPP and Socialists has declined since 1999, however the reverse is true with regard to votes under co-decision II. While economic policy was subject to significant competition between the main groups under co-operation and co-decision I, it became the most consensual policy area under co-decision II.

### **3.6. Conclusion**

The data have revealed that where *competition* exists, it is more accurately described as lack of consensus, which takes the form of a division between left and right, at least

in the cases of social and environment policy. With some variance according to policy and procedure, consensus has survived the 1999 elections to the European Parliament. Research on the acceptance and rejection of parliamentary amendments by the Council suggests that during the first two readings of legislation, the real location of policy competition within or between EU institutions lies between the European Parliament and the Council.

Hypothesis 1a that competition between political groups does not increase significantly following the 1999 elections is proved correct, although there is considerable variance according to other conditions, which proves that hypothesis 1b is also correct. Levels of consensus varied according to the procedure in question, voting rules such as the requirement for an absolute majority, and the policy area concerned. Lower consensus applied to co-decision I, from 1994 to 1999, to part texts and amendments, by comparison with whole texts, and to environment policy by comparison with social or economic policy. There was no significant difference between occasions when an absolute majority was necessary, or between the two Parliaments in question.

This thesis contends that the European Parliament has remained a consensus-based institution, despite predictions that its increased powers or changing party balance would lead to greater competition. This can be explained in terms of the institutionalised consensus being path dependent. Competition between the institutions occurs if the Commission and Parliament wish to extend their regulatory powers in fields like the environment, and to a lesser degree social policy, at the *expense* of the governments on Council. In terms of legislative voting, taking the previous factors into account, the consensus is also path dependent since no party family has a majority to pass legislation alone in Parliament. When Parliament

considers legislation, it has already had to reflect the party balance on both the Commission and Council, and the groups will only be realistically able to make proposals acceptable to the party combinations on the Council. The Parliament's rapporteur system (addressed in Chapter 5) is a consensual mechanism designed to build alliances across the parties in committee and plenary during the legislative process. Each of the main political groups has a stake in the legislative system in a way that is not the case in bipolar systems with clear winners and losers. As a consequence, when the plenary votes, many divisions have already been addressed in committee by the rapporteurs.

The findings in this chapter challenge the theory of the competitivist school analysed in Chapter 2, since the voting behaviour of MEPs has remained consensual.

#### **4. Competition, Consensus, and Office Distribution in the European Parliament, 1994-2002**

This chapter tests hypothesis 2a that although office competition in the European Parliament may increase slightly, the proportional distribution of office has remained intact. The EP may be more oppositional than in the past but this is due to the success of opposition parties in recent European elections rather than change in the Parliament's institutional powers. The distribution of office is an area in which political groups compete and ally. The chapter analyses how the assignment of office has modified between the Parliaments of 1994 and 1999, given the enhancement of the Parliament's institutional powers following Maastricht and Amsterdam, increased institutional powers, and changing representation of government and opposition parties in the European institutions. As shown by other chapters, the behaviour of Parliament has remained internally cohesive. Indeed on occasions, where the distribution of office is not proportional, this tends to be as a consequence of self-exclusion, rather than competition with winners and losers.

The Treaty of Amsterdam extended the legislative and appointment powers of the Parliament. There is consequently less incentive for the political groups to act in unison. So far as the distribution of policy-related office is concerned, it is reasonable to expect competition to be more intense. In the chapter, I identify the kinds of office that some parties want and in which others are less interested, meaning that competition is less intense. However, as with other chapters, I maintain that consensus in the European Parliament is path dependent.

The first part of the chapter introduces a theory of office distribution and explains how the hypothesis will be tested. The second part of the chapter addresses the competition for the office of President of the Parliament between 1994 and 2002,

before covering the distribution of parliamentary vice-presidencies between the groups. The allocation of the policy-related committee chairs is the subject of the next section. Whereas some committees are relatively insignificant, the opportunity to chair the major legislative committees gives individual politicians substantial power. In the fourth section, I look at the share of co-ordinating positions within the political groups themselves. The co-ordinators are the group leaders on each of the committees, responsible for developing group policy in that area. Statistical analysis then follows, which offers the most comprehensive view of the uptake of office positions within and between the principal political groups.

#### **4.1. Why Consensus? From Office to Policy**

The assignment of positions is normally agreed in advance by the main political groups, which only contest elections when consensus breaks down. The distribution of internal parliamentary positions offers political group leaders the chance to share out goods among their members. Research by McElroy (2001) has shown that political groups have always recognised committees as a potential supply of incentives and patronage. If national interests can be reconciled in a transnational system, these cases show that politicians prefer an equitable division of offices and resources, so that multinational and multiparty power sharing can be maintained. Kreppel (2002a: 202) concludes that national delegations determine the allocation of office, having dismissed voting behaviour or attendance levels as influential factors. However, she does not consider why some nationalities are consistently under represented within the groups, even if proportionality applies as a general rule. For appointments of high salience, like the President of the Parliament and the President and College of the



European Commission, parties compete, national interests emerge and there are clear winners and losers. The President of Parliament is elected by an alliance that normally undertakes to consult and co-operate during the lifetime of that Parliament. My prediction is that whereas parties are happy to distribute less influential office to smaller delegations in order to retain unity so that *everyone gets something*, the more influential positions are a prize considered worthy of contestation but within Parliament's embedded mechanisms of consensus.

The hypothesis will be tested using statistical analysis to measure proportionality in the assignment of positions, whether as committee chairs, between political groups and their constituent national parties. Although I do not expect the obvious identification of winners and losers in this context, it is likely that within the political groups, national delegations whose attendance records are low, who lack a high number of experts or suffer from high turnover will be under represented.

The share of parliamentary positions allocated in a consensus system would lead us to presuppose that a proportional distribution of office would occur within the European Parliament. This is the case in systems such as that of Switzerland, where the major parties of parliament are all represented in government and among the chairs of parliamentary committees. Parliamentary positions are also allocated in Belgium, Germany, and even the UK, in which a parliamentary opposition excluded from the executive is nevertheless granted access to positions within the parliamentary hierarchy. France and, since 1994, Italy have systems where the opposition is also excluded from influential positions in the legislature. While a fully competitive system would be characterised by the total *exclusion* of an opposition from positions such as chair of parliamentary committee, as in France or Italy, a consensual system is characterised by the proportional distribution of such positions.

## **4.2. The Parliamentary Bureau and Left-Right Competition**

This section analyses the extent of consensus and competition that exists between the political groups in the assignment of places on the Parliament's (enlarged) Bureau. This is the body that leads Parliament, and consists of the President, Vice-Presidents, and Quaestors. The first part of the section focuses on the consensus that existed between the EPP and Socialist Groups in the assignment of the Parliament's President until 1999. The second part argues that consensus is maintained between the five largest political groups and many of the larger national party delegations in the appointments to the less powerful members of the Bureau, while the third part examines the extent to which the events of 1999 may have heralded a new era of competition in the elections of for the Parliament's presidency.

Table 4.1 shows how office on Parliament's Bureau, consisting of the President, Vice-Presidents and Quaestors, has been assigned since 1994. The pattern is that at least one position is assigned to a member from the two main political parties of the four or five largest states. Application of the D'Hondt method<sup>13</sup> of proportionality between the groups will also mean that some of the smaller groups, like the Liberals or Greens, gain something. Beyond that, the tendency is to allocate additional offices to some of the smaller national party delegations within the two large political groups. Committee chairs are allocated in a similar way within the two large groups. A large delegation, like the British Labour Party or French Socialists, is usually able to chair an important committee and gain a vice-presidency of Parliament. Meanwhile, the smaller delegations from states like Greece or Sweden will only be able to gain the

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<sup>13</sup> This is illustrated in Table 4.3.

leadership of a committee or a vice-presidency (but not both) and usually have to revolve such positions between them. For example, a Swedish Social Democrat chaired the Women's Committee in 1999 but this passed to a Greek Socialist in 2002, with neither delegation holding office during the other period.

**Table 4.1: Assignment of office on the Parliament's Bureau, according to political group and national party, 1994-2002**

1994			1997			1999			2002		
Group	Party	State	Group	Party	State	Group	Party	State	Group	Party	State
<b>PRESIDENT</b>											
PES	SPD	D	EPP	PP	E	EPP	UDF	F	ELDR	Cox	IRL
<b>VICE PRESIDENTS</b>											
EPP	UDF	F	EPP	UDF	F	EPP	PP	E	EPP	PP	E
EPP	CSU	D	EPP	CSU	D	EPP	CSU	D	EPP	CSU	D
EPP	PP	E	EPP	PSD	P	EPP	PSD	P	EPP	PSD	P
EPP	ND	EL	EPP	ND	EL	EPP	Forza	I	EPP	Forza	I
EPP	Cons	GB	PES	SPD	D	EPP	Cons	GB	EPP	Cons	GB
EPP	KF	DK	PES	PS	P	PES	PS	P	EPP	ND	EL
PES	Labour	GB	PES	Labour	GB	PES	Labour	GB	EPP	M	S
PES	PSOE	E	PES	PSOE	E	PES	PSOE	E	PES	PSOE	E
PES	PDS	I	PES	PDS	I	PES	DS	I	PES	DS	I
PES	PS	F	PES	PS	F	PES	PS	F	PES	PS	F
PES	PASOK	EL	PES	PASOK	EL	PES	SPD	D	PES	SPD	D
ELDR	PSD	P	ELDR	V	DK	ELDR	VVD	NL	PES	Labour	GB
EUL	IU	E	EUL	IU	E	EUL	IU	E	EUL	IU	E
FE	CCD	I	UPE	Forza	I	Greens	Verts	F	Greens	Verts	F
<b>QUAESTORS</b>											
EPP	CDU	D	EPP	CDU	D	EPP	CDU	D	EPP	CDU	D
EPP	UDF	F	UPE	FF	IRL	EPP	FG	IRL	EPP	FG	IRL
PES	Labour	GB	PES	Labour	GB	ELDR	PRL	B	EPP	CVP	B
PES	PS	P	PES	SDP	FIN	PES	POSL	L	PES	POSL	L
EUL	PCP	P	EUL	PCP	P	Ind	Labour	GB	Ind	Balfe	GB

#### 4.2.1. The President of the European Parliament, 1994-1999

The office of President is the most contested position within the Parliament's internal hierarchy. The President presides over the opening of each plenary session, keeping order and has a substantial administrative role. S/he chairs the Parliament Bureau of Vice-Presidents and chairs the Conference of Presidents, which is the

committee of political group leaders that decides the agenda of Parliament and ultimately brokers agreements between the groups. The President is also the Parliament's external representative and meets with the Presidents of the other EU institutions, addresses the European Council, and attends IGCs.

Between 1989 and 1999, the Socialists and EPP revolved the presidency between them, the then larger Socialist Group holding it during the first half of each parliamentary term and the EPP holding it during the second half. Although the member parties of the PES and EPP usually compete against each other for governmental office at national level, it was decided that at the level of the European Parliament both groups had more to gain by co-operating. This allowed the Parliament to present itself as a more united institution on occasions when there was consensus for it to stand up to the other institutions, as discussed in the previous chapter and by Hix, Kreppel, and Noury (2003: 319). It also facilitated reaching the absolute majority thresholds for amending legislation under the co-operation and co-decision procedures introduced respectively by the SEA in 1987 and the Treaty of Maastricht in 1993. Speaking before the election of a parliamentary Vice-President in 1998, Wilfried Martens, President of the EPP Group, defended the arrangement and argued the Parliament could not enjoy the luxury of division:

'During the present legislature there was an agreement between the most important groups, the Group of European Socialists and ours... We see the above rule as a fundamental rule for our Parliament. The position of our Parliament remains extremely fragile.'<sup>14</sup>

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<sup>14</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 17 June 1998.

The smaller groups opposed this arrangement, with Jean-Marie Le Pen condemning the ‘connivance’<sup>15</sup> that led to the election of a German Social Democrat, Klaus Hänsch, as President in July 1994. He continued by asking how the French Centre-Right could justify to its electorate that its first act in the new Parliament was to ‘elect a Socialist’.

Hänsch was elected by 365 votes, against 87 for Yves Galland, a member of the Liberal Group. Subsequent speeches revealed that Hänsch had received the support of the Socialists, EPP, and some of the members of the Radical Left, in the latter case for his understanding of the fights against unemployment and racism.<sup>16</sup> Galland had only been supported by his own group and the small EDA (European Democratic Alliance) Group, consisting of the French Gaullists, *Fianna Fail*, and Portuguese and Greek right-wingers. Representatives of the smaller groups protested about their ‘undemocratic exclusion’ from positions of influence in the Parliament.

All the posts in the Parliament are renewed halfway through the Parliament’s term in the January two and a half years following the European elections. In January 1997, José Maria Gil-Robles of the EPP was elected with 338 votes. His support was drawn from the EPP, PES, and some members of the Union for Europe Group (UPE)<sup>17</sup> and Radical Left. Despite criticism of the agreement between the two large groups, Alonso Puerta of the Radical Left declared his support for Gil-Robles on account of their common struggle against Franco’s dictatorship. Martens defended the alliance between the two large groups and reminded critics that together the Socialists and EPP had a large majority. Pauline Green insisted that smaller groups and delegations were not being excluded: a Finnish Social Democrat had been nominated for a place

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<sup>15</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 19 July 1994.

<sup>16</sup> Fausto Bertinotti MEP in Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities* 19 July 1994.

<sup>17</sup> The UPE resulted from a merger between the EDA and Forza Europa Groups.

on Parliament's Bureau, while the Liberal, Radical Left and UPE Groups would all have Vice-Presidents.

Gil-Robles' opponent, Catherine Lalumière, a French member of the European Radical Alliance (ERA) Group, attracted 177 votes in protest against the alliance of the two large groups. The voting figures also suggest that a significant minority of Socialists voted for her, presumably in protest at otherwise having to support a Centre-Right candidate. Jens Peter Bonde of the Eurosceptic Europe of Nations (IEN) Group, compared the election of the President and the dominance of the German and Spanish delegations within both large groups to undemocratic business practices:

'It is a method familiar to us from the business world, under the term "holding company". You take the support of the two largest subgroups within the two largest groups, and then with a minority of members you have a decision which is not necessarily in accordance with the wishes of the majority.'<sup>18</sup>

Although, the small groups complained of their exclusion from influence, they accounted for a minority of MEPs. The outcomes agreed by the EPP and Socialists were consensual, since these groups account for 63 percent of EP membership, while positions of influence in proportion to their size were made available to the Liberal, Green, Radical Left, and Gaullist/Forza Italia type groups, leaving only Bonde's hard<sup>19</sup> Eurosceptics and other independent MEPs on the margins.

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<sup>18</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 14 January 1997.

<sup>19</sup> This concept is borrowed from Taggart and Sczerbiak (2005). They differentiate between 'soft' Eurosceptics, whose criticism of European integration is qualified and can be located within the pro-system political parties, and 'hard' Eurosceptics, opposed in principle to European integration.

#### 4.2.2. The Vice-Presidents and Quaestors

Fourteen parliamentary Vice-Presidents and five Quaestors are also elected at the constitutive session, although the number of posts allocated to the different political groups is normally agreed in advance. Institutional change has not affected elections for these offices, which has remained consensual. In 1994, the election for the Vice-Presidents was contested by a fifteenth candidate from the Greens, in protest at events in Italian national politics. The elections for Quaestors are contested more often and on the basis of personality connected to the office of Quaestor. These offices tend to be contested only by an *excluded* group or independent-minded MEPs who do not accept the decisions of the group leaderships in selecting candidates, and is hardly significant in terms of the relative lack of importance of these posts.

The Vice-Presidents deputise for the President in official functions, revolve the task of chairing plenary sessions between each other and the President and, with the President, are members of the Bureau. Three of the Vice-Presidents drawn from the two large groups also sit as permanent members of the Parliament-Council Conciliation Committee,<sup>20</sup> under the co-decision procedure (see Chapter 3). The Quaestors are responsible for issues of administration and welfare with regard to MEPs, dealing with issues like security, leisure, and expenses. They also have observer status on the Bureau. The importance of these posts is low, although the groups like to have representation on the Bureau. However, each of the Parliament's Presidents between 1989 and 2002, except Patrick Cox, has been a former Vice-President, so it is a necessary step for MEPs with presidential ambitions. A certain degree of seniority is usually required to reach these levels of the parliamentary

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<sup>20</sup> The three Vice-Presidents take it in turns to co-chair this committee with the Council presidency. The role of the Conciliation Committee is to try to broker agreements between Parliament and Council on legislation passed under the co-decision procedure, in which the two institutions are co-legislators.

hierarchy, which can either be through at least ten years as an MEP or senior national office. Cox had been an MEP for ten years and for several years had led the Liberal Group before becoming President.

Application of the D'Hondt method, agreed by the major groups, is applied in elections for the Vice-Presidents, illustrating the level of institutionalised consensus in the form of unwritten rules. The D'Hondt system does not appear in the Parliament's Rules of Procedure. The entitlement to Vice-Presidents is reduced by two for the group holding the Presidency of the Parliament. It was practice to elect two Quaestors from each of the two large groups and one from a small group. In 1994 after the election of a Socialist President, the D'Hondt method allowed for the election of six EPP, five Socialists, one Liberal, one Radical Left, and one *Forza Europa* (FE) Vice-Presidents. However, the nomination of a candidate from Silvio Berlusconi's Forza Europa was contested by the Greens and other left-wing MEPs, on account of Forza Italia's domestic coalition with the Far Right. Ria Oomen-Ruijten of the EPP shared the concern of Martens for the delicate balance in the Parliament and insisted the observance of the D'Hondt formula meant voting for Alessandro Fontana<sup>21</sup> of Forza Europa. At the third ballot Fontana was elected with 278 votes against 234 for the Green candidate. Although most of the Left had voted for Ripa di Maena, the candidate of the Greens, sufficient numbers of PES members heeded the call from the EPP for Fontana to be elected. Although this election was contested, the result was that the unwritten rules of consensus were maintained.

By January 1997, changes in the political groups and the election of a President from the EPP meant that there would be seven Vice-Presidents from the PES and four from the EPP, as well as one each from the UPE, Liberal and Radical Left. The departure of

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<sup>21</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 19 July 1994.



the Forza Italia delegation from the UPE to the EPP Group coincided with the death of one of the Vice-Presidents from the EPP in June 1998. Martens reiterated the importance of maintaining proportionality between the groups and offered the vacant Vice-Presidency to Gerard Collins of the UPE rather than a member of his own group.<sup>22</sup> Collins was elected with 332 votes against 141 for the Green candidate, Undine Bloch von Blottnitz. Claudia Roth of the Greens defended this candidature on the familiar grounds of offering a choice to MEPs, pointing out that there was already a Quaestor from the UPE, while three small groups, including the Greens, were unrepresented on the Bureau. The division in this election is comparable to that between Gil-Robles and Lalumière in 1997 or Fontana and Ripa di Maena in 1994. Most MEPs observed the D'Hondt formula, although a substantial number from the Left, including Socialists, clearly voted for the Green candidate.

In 1999 the arrangement between the two large groups came to an end, however the D'Hondt formula for attributing membership of the Bureau continued to be observed. In reality, it is notable that on most occasions, accords between the political groups hold and the elections are uncontested.

#### **4.2.3. Substituting Liberals for Socialists in 1999: Competition or Continuity?**

In 1999 the EPP<sup>23</sup> became the largest group for the first time, providing it with the opportunity of establishing itself in a more influential position, with the help of the Liberals. This was an incentive for the agreement of the two groups, with the EPP being 'determined to vehemently fight attempts to introduce a socialist agenda in

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<sup>22</sup> *Official Journal of the European Communities*, Varbatim Report of Proceedings, 17 June 1998.

<sup>23</sup> Officially renamed EPP/European Democrats (EPP/ED)

Europe’.<sup>24</sup> While the Socialists believed they should hold the presidency again, since the outgoing President was a member of the EPP,<sup>25</sup> the view of the EPP was that the largest group ‘should go first’ in the new Parliament. Since the Socialists and EPP ‘could not agree to support the same candidate, the EPP were forced to shop around’.<sup>26</sup> On this occasion, the competition leading to an exclusion of the Socialists was an exception that proved the consensual rule. While the EPP and Liberal groups chose to logroll, the Socialists continued to access office and influence according to the D’Hondt method. The EPP and Liberals emphasised the need for political balance between the institutions:

‘The delicate balance between the EU institutions and national parliaments may be disrupted by excessive politicisation and a disregard for the balance of power.’<sup>27</sup>

‘The ELDR believes in making this agreement with the EPP that through the European Parliament we contribute in some way to restoring a broad political equilibrium between the various political forces in the EU even if institution by institution and case by case such balances cannot exist.’<sup>28</sup>

Besides being assured EPP support for the bid of Patrick Cox, Leader of the Liberal Group, to become President of the Parliament in succession to its own candidate Nicole Fontaine, the agreement extended to the Liberals being allocated the chair of the Citizens’ Freedoms and Rights Committee. Both groups also agreed to work towards the creation of common statutes for MEPs and their assistants.

A further reason for the Liberals to co-operate with the EPP on these matters was a respect for Fontaine and disapproval of Mario Soares, the Socialist candidate:

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<sup>24</sup> EPP Action Programme, 1999-2004, Brussels, February 1999.

<sup>25</sup> Interview, official of the PES Group, Brussels, 8 March 2000.

<sup>26</sup> Interview, James Temple, official of the EPP Group, Brussels, March 2000.

<sup>27</sup> EPP Action Programme, 1999-2004, Brussels, February 1999.

<sup>28</sup> ELDR press release, Brussels, 15 July 1999.

‘The candidate that was put up by the Socialists was unsuitable. For a parliament which seeks to put up a modernising profile in front of the European public, to put up a charming but very old and, in parliamentary terms, a very inexperienced person to be President of the Parliament, in this critical period, was completely wrong and the Socialist Group understood that themselves perfectly well.’<sup>29</sup>

The Liberals were keen to emphasise the limits of the agreement with the EPP and the fact that on issues not connected to the constitutive agreement, it would operate independently, taking advantage of its pivotal status between the two larger groups:

‘It is an agreement in relation to the constitutive sessions of the European Parliament over the coming five years. It is not a political coalition... We cherish our policy integrity and independence and in our negotiations insisted on maintaining our right to pursue our own policy agenda within the European Parliament, seeking coalitions to our left or to our right as appropriate on a case by case basis.’<sup>30</sup>

One of the effects of the separation of powers on the European Parliament is the absence of a government-opposition dynamic, so that political groups have always been free to construct case-by-case alliances. This occurred for roll call votes as well as the election of the President of Parliament. The separation of powers, flexible alliance approach, and a belief in ‘balance’ characterised the approach of the Liberal Group in 1999, since this allowed them to maximise their pivotal influence. In 1999, Nicole Fontaine was elected President with 306 votes, coming from the EPP, Liberals, and possibly a few Socialists. Mario Soares had 200 votes from members of the Socialist and Radical Left Groups, while Heidi Hautala of the Greens received 49 votes.

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<sup>29</sup> Interview, Andrew Duff MEP, Brussels, 7 March 2000.

<sup>30</sup> ELDR press release, Brussels, 15 July 1999.

**Table 4.2: Votes cast in the election for President of the Parliament, January 2002**

<b>Name</b>	<b>Supported by</b>	<b>Round 1</b>	<b>Round 2</b>	<b>Round 3</b>
Patrick Cox	EPP, ELDR	254	277	298
David Martin	PES	184	226	237
Jens-Peter Bonde	SOS Democracy, EDD	66	76	33
Francis Wurtz	EUL	42	-	-
Gérard Onesta	Greens	37	-	-
Total votes		590	592	586
Void votes		7	13	18
Valid votes		583	579	568
Necessary majority		292	290	285

Halfway through the term of the 1999 Parliament, in January 2002, the EPP honoured its agreement with the Liberal Group, by voting for Cox as President of the Parliament. The election was more competitive than any election since 1987. Each group apart from the EPP and Union for a Europe Nations (UEN) fielded candidates, with the result that Cox was not elected until the third round (Table 4.2). This was the first time that an anti-system or Eurosceptic candidature for the presidency occurred since the 1980s, when Jean-Marie Le Pen had stood on various occasions. At the second round, Francis Wurtz of the Radical Left Group withdrew in favour of David Martin, the Socialist candidate, while the Greens withdrew their candidate in favour of Cox, on the grounds that a member of a small group should accede to the presidency.<sup>31</sup> By this point, Bonde was gaining support not only from the Eurosceptic members of the Europe of Democracies and Diversities (EDD) and UEN Groups, but also from most of the British Conservatives and some members of the Green and Radical Left Groups. His candidature was more successful than those of previous outsiders. Bonde made an appeal beyond his core constituency of hard Eurosceptics to those MEPs who supported greater reform and openness within the Parliament. In the second round of voting he gained 76 votes, compared to 277 for Cox and 226 for

<sup>31</sup> *Libération*, 16 January 2002.

Martin. The result merely confirmed the agreement made between the EPP and Liberals in 1999.

The assignment of the chairs of the Parliament's committees works in a similar way. However, it is practice for smaller delegations that do not have a place on the Bureau to be allocated a committee chair. This will be examined in the next section.

#### **4.3. Competition and Co-operation for the Assignment of Committee Chairs**

The increased legislative power of the Parliament since the late 1980s means that the committees are much more closely linked with outcomes in European level legislation. The European Parliament is a committee-based legislature, since the detail of its legislative and investigative activities are elaborated within the seventeen committees. As a result we would expect the group leaderships to take an active interest in which MEPs are appointed to committees. The experience of an MEP and the extent of his or her specialisation in a particular policy area will influence the decisions of group leaderships in assigning both the membership of specific committees and the allocation of the committee chairs to which each political group is entitled. Cox and McCubbins (1993) suggest that the committees of the US Congress are instruments of parties and facilitate the passing of legislation. The rationalist approach of Cox and McCubbins (1993) views Congressional parties as vehicles for the assignment of office that enable legislators to access the resources that in turn assist with the distribution of constituency benefits that will secure re-election. Krehbiel (1991) on the other hand views committees as a means for accessing information by the legislature so that it can improve the legislative specialisation and eventual output of its members. Both of these characteristics apply to the EP, although

policy outcomes are more relevant for the careers of MEPs than direct constituency benefits.

As mentioned before, during the 1994-1999 Parliament Wilfried Martens emphasised the need for office to be distributed between political groups in strict proportionality in order that Parliament, dependent on the consensus of the major political tendencies, not be endangered. While individual delegations within the groups determine which of their members are appointed to specific committees, the assignment of chairs is left to the groups as a whole and then to the larger delegations thereof, in a similar way to the distribution of office within the Bureau. However, the groups and larger delegations within them are constrained by the demands of seniority. Although there are cases of MEPs without previous experience being elected to senior committee positions, these are more the exception than the rule. In 1999, seniority as defined in the previous section applied to each of the seventeen committee chairs, except for the Chair of the Petitions Committee. Committee chairs like Terry Wynn, Caroline Jackson, Elmar Brok, Christa Ranzio-Plath, Joaquim Miranda, and Dietmut Theato were MEPs since the 1980s. Meanwhile, Michel Rocard, Giorgio Napolitano, Carlos Westendorp, and Giuseppe Gargani had arrived in the Parliament more recently having held important positions in domestic politics.

Literature on coalition formation focuses on the formation of governments, including explanations of which parties are likely to bid for which ministries (Budge and Keman 1993). To an extent, a similar methodology can be applied to the legislative coalition of all the political groups that are large enough to obtain at least one committee chair. Budge and Keman (1993: 53) argue that Ministries are normally allocated in proportion to the seats that government parties hold in a Parliament. Some parties are interested in particular Ministries more than others. Budge and Keman

(1993: 102) found that of the 65 different European governments analysed over an historical time period that contained agrarian parties, in 54 cases the Ministry of Agriculture was held by agrarians. In governments where agrarian parties are absent but Christian Democrats are present the latter take the Ministry of Agriculture on 83 percent of occasions. In cases when Socialists are in government, they tend to take the Ministries concerned with social affairs, employment and health. If the Socialists are absent from government, these Ministries revert to socially conscious Christian Democrats rather than free market Liberals. In a grand coalition comprising Socialists and Christian Democrats, we would expect the Socialists to take the social ministries and the Christian Democrats to take Agriculture, without dispute. However, competition might occur between the two not only on the major offices like Foreign Affairs and Finance, but also on Education if the church-secular cleavage were strong. The fact that some parties in a coalition want certain ministries that interest other parties far less, while the competition for certain other ministries may be intense is equally true when it comes to sharing out committee chairs in the European Parliament.

Bowler and Farrell (1995: 227) confirm that competition for the membership of certain committees makes them reasonably representative of the EP as a whole. For example, business and labour are both well represented on the Parliament's social, economic, and industrial committees. The agrarian and fisheries sectors are over represented on the Agriculture and Fisheries Committees (Varela 2001), while opponents of the Agricultural and Fisheries policies are less well represented, maybe preferring the Budgets, Budgetary Control, or Environment Committees.

As the institutional powers of the European Parliament have been enhanced, some committees have gained more power than others, so that the political groups target

some more than others for reasons of policy. Until the late 1980s, when the Parliament had only consultative power the Chair of the Agriculture Committee was coveted by the EPP Group, on account of the share of the EU budget that the Common Agricultural Policy received at the time. Although still large, the share of the budget devoted to Agriculture has since fallen, no substantial legislative power has been given to the Parliament in the field of agriculture, while the powers of the Parliament have increased in other policy areas, whose budget allocations have likewise grown. Consequently, the Chair of the Agriculture Committee is no longer so highly demanded by the EPP which would prefer to gain the chairs of the committees on the Environment, Economic and Monetary Affairs, Foreign Policy, Budgetary Control, and Regions. The Greens have also grown in strength, increasing their number from 22 in 1994 to 48 in 1999 and have developed policy interests in agriculture, which led them to assume the Chair of the Agriculture Committee.

McElroy (2001) suggests that there is no rank ordering of EP committees and that it is not clear where committees are placed within any informal ranking procedure. She considers various methods for ranking, including those formulated by Groseclose and Stewart (1998), whereby we can count the number of transfers from one committee to another and conclude that the committees gaining new members are the important ones. McElroy's application of this approach to the period before 1999 shows that the Development Committee was more highly ranked than the External Economic Relations Committee, although the Development Committee is less powerful. The explanation for this must be that power alone is not the only force in motivating the choice of MEPs. Development issues may be more appealing for left-wing representatives without specialisation in trade issues, who would find membership of the External Economic Relations Committee uninspiring. In terms of ranking the



order of committee preferences, comparisons with the US Congress are not helpful. The EP has a much higher turnover than Congress. National delegations often have pre-ordained senior members that will be appointed to whichever committee chairs are available.

One method used to rank committees in absolute terms is to measure the quantity of legislation that they consider, particularly under the co-decision procedure. The assumption is that a powerful legislative committee is the first choice of most MEPs. However, this does not cover issues that may be of personal interest to individual MEPs, sufficient for them to opt for membership of largely consultative committees. In 1999, Michel Rocard, the *pre-ordained* candidate of the French Socialists to chair a committee was moved from heading the Development to the Employment and Social Affairs Committee, effectively a promotion. He was displeased with this since he had a personal affection for development issues and approached Francis Wurtz, leader of the Radical Left Group, which had opted to head the Development Committee from its remaining choices.<sup>32</sup> The Radical Left Group was content to exchange Development for Employment and Social Affairs with Rocard, although neither the French Socialist delegation nor the Socialist Group were in agreement, so that Rocard was compelled to accept his *promotion*.

The ranking method that I use is not absolute. The leadership of each committee is decided firstly between the groups, and then between the national delegations within each group, according to the D'Hondt method. Table 4.3 shows the logical place within the *pecking order* that the larger national delegations have. The D'Hondt method has been used for assigning positions between the groups since the Parliament

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<sup>32</sup> Meeting of the EUL Group, Strasbourg, July 1999.

was directly-elected in 1979 (Kreppel 2002a: 189) and can now be considered as pretty much institutionalised.

**Table 4.3: Logical attribution of committee chairs to political groups and national party delegations in 1999, according to number of seats, calculated by the D'Hondt formula**

Preference Group	Seats	Delegation	Seats
1 EPP	233	CDU-CSU	53
reduced to	116.5		26.5
2 PES	180	SPD	33
reduced to	90		16.5
3 EPP	116.5	Cons	36
reduced to	77.7		18
4 PES	90	Labour	29
reduced to	60		14.5
5 EPP	77.7	PP	28
reduced to	58.3		14
6 PES	60	PSOE	24
reduced to	45		12
7 EPP	58.3	CDU-CSU	26.5
reduced to	46.6		17.7
8 ELDR	51	LibDem	10
reduced to	25.5		5
9 Greens	48	Verts	9
reduced to	24		4.5
10 EPP	46.6	Forza	21
reduced to	38.8		10.5
11 PES	45	PS (F)	22
reduced to	36		11
12 EUL	42	PCF or PDS	6
reduced to	21		3
13 EPP	38.8	Cons	18
reduced to	33.3		12
14 PES	36	DS-SDI	17
reduced to	30		8.5
15 EPP	33.3	CDU-CSU	17.7
reduced to	29.1		13.3
16 PES	30	SPD	16.5
reduced to	25.7		11
17 EPP	29.1	PP	14
reduced to	25.9		9.3

One of the changes resulting from increasing competition following the 1999 elections is that the preferred logrolling partner of the EPP became the ELDR Group.

Until then, an unwritten agreement that the EPP would take the chairs of the economic committees, while the Socialists would be allowed free rein to bid for social policy or environment was disregarded in 1999. However, the D'Hondt mechanism for making selections survived the decision of the EPP to logroll with the Liberals rather than the Socialists. This indicates the strength of the consensual mechanisms for restraining competition that would otherwise result in a collective loss.

Under the D'Hondt system in 1999 the EPP, with 233 seats, was entitled to eight committee chairs out of seventeen (Table 4.3). When the leaders of the political groups met to agree the assignment of the chairs, the EPP was allowed the first, third, fifth, seventh, tenth, thirteenth, fifteenth, and seventeenth choices. These are then allocated by the group to its individual delegations, usually in order of delegation size. However, in practice at least one or two chairs are allocated to small member parties of the group. Logrolling within groups is common so that some of the delegations from smaller member states can be included. An example of this in 1999 was Greek New Democracy, which obtained the leadership of the Regions, Transport, and Tourism Committee, undeniably of greater significance than the Culture Committee, which was assigned to their group colleagues in Forza Italia, a much larger delegation. Delegations may be overlooked if they already hold the presidency of Parliament or the political group, for example the French members of the EPP in 1999. Unlike the larger delegations, the New Democrats did not have a member of the Parliament's Bureau. Meanwhile, the Italian Democratic Christians, an ally of Forza Italia, held the chair of the Petitions Committee, so it is possible that the Italian centre-right was allocated the chairs of two relatively unimportant committees in recompense for not holding one of greater significance. Forza Italia may have chosen the Culture Committee over more powerful alternatives on account of the party leader's direct

interest in issues of media and sport, as well as a tradition that Italians from various political groups had historically chaired this committee.

**Table 4.4: Committee chairs assigned to political groups and delegations by order of preference in 1999 and 2002<sup>33</sup>**

Pref	Committee Chair	1999			2002		
		Group	Party	State	Group	Party	State
1	Foreign and Security Policy	EPP	CDU	D	EPP	CDU	D
2	Economic and Monetary Policy	PES	SPD	D	PES	SPD	D
3	Environment, Public Health and Consumer Affairs	EPP	Cons	GB	EPP	Cons	GB
4	Budgets	PES	Labour	GB	PES	Labour	GB
5	Citizens' Rights, Justice and Home Affairs	ELDR	LD	GB	EPP	PP	E
6	Industry, External Trade, Research and Energy	PES	PSOE	E	PES	PSOE	E
7	Legal Affairs and Internal Market	EPP	PP	E	EPP	Forza	I
8	Regions, Transport and Tourism	EPP	ND	EL	ELDR	UV	I
9	Agriculture and Rural Development	Greens	Gr	D	EPP	RPR	F
10	Budgetary Control	EPP	CDU	D	EPP	CDU	D
11	Employment and Social Affairs	PES	PS	F	Greens	GL	NL
12	Development and Co-operation	EUL	PCP	P	EUL	PCP	P
13	Culture, Education, Media, Youth and Sport	EPP	Forza	I	PES	PS	F
14	Constitutional Affairs	PES	DS	I	PES	DS	I
15	Fisheries	EPP	PP	E	EPP	Cons	GB
16	Women's Rights and Equal Opportunities	PES	SAP	S	PES	PASOK	EL
17	Petitions	EPP	CDU	I	EPP	UDC	I

In 1999 the Socialists with 180 MEPs were entitled to six chairs and the second, fourth, sixth, eleventh, fourteenth, and sixteenth choices. Although the precise choices of the groups and delegations are not known, it would seem that the chairs of the four most powerful committees are held by the two largest delegations in each of the two large groups (Table 4.4). The same is true in previous Parliaments. With 51 members, the Liberals were allowed the eighth choice, the Greens with 48 members had ninth choice and the Radical Left with 42 members had twelfth choice. The leaderships of the groups and national delegations will have a fair idea in advance of which positions they will be able to bid for. On account of the accord between the EPP and ELDR Groups, the Liberals were allocated the chair of the Citizens' Rights and Justice and

<sup>33</sup> The order of preference is based on the author's subjective judgement of committee powers and prestige, as well the weight of the particular political groups and delegations of the chairs.

Home Affairs Committee, exchanging eighth for fifth choice with the EPP. This committee was the personal choice of Graham Watson, who had been selected as the Liberal candidate for a committee chair by his group.<sup>34</sup> When the Greens decided to make their only choice of chair, the eight most attractive committees had already been taken and they were left to choose one from the remaining nine, selecting Agriculture over Employment and Social Affairs. Having twelfth choice, the Radical Left selected Development from the remaining six committees.

Among the Socialists, each of the five large delegations was allocated one each of five of the six PES chairs. The Swedish Social Democrats took the sixth and least important chair.

In 2002, a slight change in balance between political groups and the election of a Liberal as President of the Parliament meant that the allocation of chairs was altered. The Liberals were no longer allocated a chair of their choice by the EPP and had to content themselves with the eighth choice of committee, Regional Affairs, Transport and Tourism. Rather than select one of the most senior members of its group to chair the committee, the Liberals chose a member from a regionalist party, *Union Valdôtaine*, a one-member delegation, and possibly the group's most suitable candidate as a way to avoid internal conflict. In losing three members, the Greens slipped from being able to make the ninth to eleventh choice of committee. This cost them Agriculture, reverting to the EPP and the French Gaullist delegation, but meant they gained Employment and Social Affairs from the Socialists. Like the Liberals, the Greens selected the most appropriate person to preside over the committee, previously the group's co-ordinator for social affairs. The Socialists found themselves unprepared for the loss of the Social Affairs Committee. Michel Rocard in turn

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<sup>34</sup> Interview, Alexander Beels, Deputy Secretary-General, ELDR Group, Brussels, March 2000.

wished to use the French Socialist delegation's greater size in order to displace Giorgio Napolitano, a member of the smaller Italian delegation, as Chair of the Constitutional Affairs Committee.<sup>35</sup> The Italians defended Napolitano's position on the grounds of continuity since he had been chairing the committee since 1999 through the IGC of Nice and the *post-Nice* period. For reasons of continuity, as well as the Socialist wish not to antagonise the Radical Left Group, Rocard decided against displacing Joaquim Miranda, a Portuguese Communist, as Chair of the Development Committee. Rocard and the French Socialists had few remaining choices and opted for the Culture Committee. In 2002, the changes to the committee chairs were reasonable, with the groups observing the unwritten rules of consensus between each other, although some conflict occurred within groups.

The choices of the political groups and delegations in 1994 and 1997 differed, not only on account of the different partisan balance in the Parliament. In 1999, the number of committees fell by three, some of them were merged and others had their powers enhanced by the Treaty of Amsterdam, which came into force in 1999. In 1994 The CDU-CSU assumed the chair of the Economic and Monetary Committee as the second choice committee and the first choice available to the EPP. The CDU-CSU was the largest delegation of the Group and the second largest in the Parliament. At this time the Committee had responsibility for industrial affairs, a policy area re-allocated to a new committee in 1999. There was also considerable legislation being passed through the Parliament in the period leading to Monetary Union in 1999. The decline in legislative output and its loss of industrial affairs made it a less attractive committee in 1999. Although still an important committee, Employment and Social Affairs has similarly been *overtaken*.

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<sup>35</sup> *European Voice*, 24-30 January 2002.

**Table 4.5: Committee chairs assigned to political groups and delegations by order of preference in 1994 and 1997<sup>36</sup>**

Pref	Committee	1994			1997		
		Group	Party	State	Group	Party	State
1	Environment, Public Health and Consumer Affairs	PES	Labour	GB	PES	Labour	GB
2	Economic, Monetary, Industrial Affairs	EPP	CDU	D	EPP	CDU	D
3	Budgets	PES	SPD	D	PES	SPD	D
4	Foreign and Security Policy	EPP	PP	E	EPP	Cons	GB
5	Employment and Social Affairs	PES	Labour	GB	PES	Labour	GB
6	Budgetary Control	EPP	CDU	D	EPP	CDU	D
7	Institutional Affairs	PES	PSOE	E	PES	PDS	I
8	External Economic Relations	ELDR	VLD	B	EUL	CU	I
9	Regional	PES	PDS	I	EPP	PP	E
10	Legal Affairs and Citizens' Rights	EPP	PPI	I	ELDR	VLD	B
11	Development and Co-operation	PES	PS	F	PES	PS	F
12	Transport and Tourism	EPP	CDA	NL	UPE	RPR	F
13	Culture, Education, Media, Youth and Sport	EUL	PRC	I	EPP	CDA	NL
14	Research and Energy	FE	Forza	I	UPE	Forza	I
15	Civil Liberties and Internal Affairs	PES	PS	P	PES	PvdA	NL
16	Agriculture and Rural Development	EDA	RPR	F	PES	PSOE	E
17	Fisheries	EPP	PP	E	EPP	PP	E
18	Procedure, Credentials and Immunities	PES	POSL	L	PES	POSL	L
19	Petitions	PES	Labour	GB	EPP	CCD	I
20	Women's Rights and Equal Opportunities	Greens	GL	NL	Greens	GL	NL

In 1994 and 1997, following the Budge and Keman (1993) analysis we can imagine that the chairs of any of the six or seven most popular committees would have been attractive to either of the main groups. As mentioned above, the unwritten agreement between the Socialists and EPP to allocate social and environment committees to the Socialists and economic committees to the EPP was terminated in 1999. The increasing legislative and regulatory profile of the Environment Committee whose influence over consumer policy was growing in the wake of BSE, dioxin and genetically modified foods made its chair a target for the EPP Group. In turn the EPP was prepared to sacrifice the chair of the Economic and Monetary Committee. However, in 1994 despite its limited powers, the Agriculture Committee retained its

<sup>36</sup> The order of preference is based on the weight of the particular political groups and delegations of the Chairs.

importance, at least in so far as overseeing the Common Agricultural Policy and yet its chair was allotted to the small EDA (Gaullist) Group, which had only the sixteenth choice from the committees. Other less prestigious committees, also with limited powers but with lower policy budgets at European level were preferred by the larger delegations, which found them more relevant than Agriculture. By 1999, Agriculture had become a priority policy area for the Greens, not least on account of food scares and its connection to environmental policy. The improved representation of the Green Group also meant that it was entitled to the ninth rather than twentieth choice of committee.

Apart from attempts to disrupt procedures by the European Right Group, led by Le Pen in the 1980s, the only occasion on which the chair of a committee was contested was in 1994 (Corbett, Jacobs, and Shackleton 2003). A proportion of MEPs on the Left believed it unacceptable that a member of Forza Italia should be elected to a committee chair. The D'Hondt formula allocated fourteenth choice to Forza Europa, which opted for the chair of the Research and Energy Committee. The outgoing Socialist chair was successfully re-elected, albeit by only thirteen votes to twelve, unlike Ripa di Maena's challenge to Fontana for the fourteenth parliamentary Vice-Presidency. The EPP Group, loyal to the strict observance of D'Hondt proportionality, supported Forza Europa by limiting co-operation with the PES until the chair resigned in favour of the Forza Europa nominee.

On the rare occasions that competition emerged, as with the fourteenth vice-presidency of Parliament or Chair of the Research Committee in 1994, or the end of logrolling between the EPP and Socialists in 1999, the result was the reconfirmation of embedded consensus, the election of the *correct* candidate, and continued observance of the D'Hondt mechanism.



#### **4.4. Positions within and between the Political Groups**

While the previous section analysed the share of committee chairs between the groups, this section concentrates on the share of positions between national delegations within the groups, where the attribution of office is less proportional. This is due not to competition, with winners and losers, so much as self-selection or selection based on specialisation and experience of MEPs. The section concludes with an ordinary least squares (OLS) regression of the distribution of positions within and between the two large groups. Even if on balance, such distribution is proportional, this analysis will illustrate the extent of any skew in that proportionality according to relevant control variables.

##### **4.4.1. Committee Co-ordinators**

The main political groups appoint a co-ordinator or group leader on each of the seventeen committees, who takes responsibility for that policy area. As such they act on behalf of the group's wider leadership (Whitaker 2001). They make sure that the members of their groups are allocated influential reports. Whitaker's evidence suggests that once a group is assigned an important report, the co-ordinator decides which of his or her MEPs will actually be the *rapporteur*. Rapporteurs write the legislative report for the committee and build consensus in committee and across Parliament for proposals to be passed, where necessary being part of Parliament's negotiating team with the Council and Commission. Whitaker addresses whether committees are run more by their chairs, which would suggest that they are

institutionally independent, or by the co-ordinators, in which case we could conclude that the political groups are the main arbiters of the Parliament. The interview data collected indicate that neither the chairs nor co-ordinators prevail over the other.

Within the two large groups, one startling fact is the very small number of constituent parties from which the co-ordinators are drawn (Appendix: Tables A1 and A2). Whereas the offices mentioned above are distributed roughly proportionately, the office of co-ordinator is not. It is assigned to those MEPs who choose to specialise in particular areas and who are committed to remaining in the European Parliament for more than one term. This eliminates those who come from member states whose delegations have a tradition of high turnover.

Of the EPP co-ordinators elected in 1999, seven were German, four were Spanish, three were British, two were Dutch, and one was Austrian. There were no co-ordinators among the group's 34 Italian or 21 French members. During the 1994 Parliament, EPP co-ordinators were predominantly German, Spanish, and British, although there were a few from the Netherlands and one each from Belgium, Luxembourg, and Greece. Within the Socialist Group, almost all committee co-ordinators are British, German and Spanish, although there were some Italians among them in the 1994 Parliament. As the distribution of the committee co-ordinators suggests, it is the members of the British, German, and Spanish member parties of the PES that occupy the leading positions of policy held by the Group, mirroring the case of the EPP. However, in the 1994 Parliament it was the Italian members rather than the Spanish who held co-ordinator positions.

#### **4.4.2. Office within the EPP and PES Groups**

In this sub-section, I compare the assignment of total office positions between the two largest political groups. Office in these tests includes membership of the Parliament's Bureau, presiding over a committee, being a group leader, or being a committee co-ordinator. The analysis is limited to the EPP and PES Groups only. The Liberals and other smaller groups are not included. This is because they tend to be allocated one committee chair and parliamentary vice-presidency for the whole group and so far as their committee co-ordinators are concerned, it could happen that more than one-third of a group's members are co-ordinators. This was the case for the Liberals in 1994, when 20 committee co-ordinators were drawn from 54 MEPs in total.

It is notable that the EPP held a higher number of positions in proportion to its size than did the Socialist Group (see Appendix: Tables A3 and A4), however the correlation of office to MEPs by national party delegation in the two large groups was 0.955 in the 1994 Parliament and 0.910 in the 1999 Parliament, suggesting significant proportionality. An important caveat on this data is that they measure office held, purely in terms of numbers, without a system of weighting for more important positions. To be President of the Parliament is more important than to be Group Co-ordinator on the Petitions Committee, but these qualitative considerations are not factored in. In terms of concluding, by far the most significant finding is that the assignment of office is proportional, with  $R^2$ s in excess of 0.9 and the delegation size being the most influential variable in predicting the number of reports gained by individual national parties. It is clear that the parties whose members really access positions of influence in more substantial ways are those from Germany, Britain, and

Spain (Table 4.6). The British Conservatives, Forza Italia, and the French do badly. Meanwhile Labour, the DS-SDI, Dutch Christian Democrats, and the main German and Spanish parties do much better.

I test to see if there is a difference in favour of MEPs coming from the five largest member states and whether the distribution of office internal to both the EPP and PES Groups is proportional by means of an ordinary least squares regression:

$$Y_{office} = a + B_1SIZE\_OF\_NATIONAL\_PARTY\_DELEGATION + B_2LEFT\_RIGHT\_DISTANCE\_FROM\_GROUP\_MEAN + B_3PRO/ANTI-INTEGRATION\_DISTANCE\_FROM\_GROUP\_MEAN + B_4SPD(Yes\ or\ No) + B_5LABOUR(Yes\ or\ No) + \dots$$

$Y_{office}$  is the dependent variable for the number office positions per national party delegation,  $B_1$  is the independent variable and  $B_2$  onwards are the control variables.

While only the sample sizes from the EPP and PES Groups are large enough to provide reliable indicators of any bias in the distribution of positions, within these two groups, the five largest delegations can be attributed responsibilities on the basis of their size or according to indicators such as their ideological distance from the mean positions of their groups. For each MEP who is a member of one or other of the five largest delegations within each of the EPP and PES Groups, a dummy 1 or 0 variable was entered. Ideological distances from the group mean calculated from NOMINATE scores elaborated by the European Parliament Research Group's survey of MEP voting behaviour are entered. These concern left-right and pro and anti-European integration distances from the group means.

In gaining office, in no case are the left-right and pro and anti-integration distances of the national delegations statistically significant. We can therefore conclude that they are not relevant in forecasting the *likely* attribution of office within the two

groups. Across both halves of both the 1994 and 1999, the only results consistently significant at below the .01 point are those for the size (number of MEPs) of each national party delegation. The coefficients for these vary between 0.083 in 2002 and 0.245 in 1994, with very low variance indicated by the respective standard errors of 0.022 and 0.040. Therefore the larger the number of MEPs in a delegation, the greater the number of office holders it will have. Together with very high  $R^2$ s between 0.963 and 0.977, these results indicate a high degree of proportionality across both groups and national party delegations.

Between the larger national party delegations, there were notable exceptions, however. While the coefficients for British Labour, the Spanish People's Party, and SPD, were not significant in 1994 and 1997, they become significant at below the .01 point in 1999 and 2002, a result that also applies in the pooled results for both Parliaments. Despite holding many offices during the Parliament of 1994, this lacked statistical significance for Labour, since the party had a very high number of MEPs at 63 in 1994 and was therefore comparatively under represented among office holders. Labour's positive coefficients in 1999 and 2002 were high, respectively at 6.263 and 5.620, matched by low variance as indicated by standard errors of 0.753 and 0.796. For the Spanish People's Party, the respective figures for 1999 and 2002 were 4.464 and 3.709, with slightly higher variance than for Labour indicated by standard errors of 0.722 and 0.778. Although still positive and highly significant in statistical terms, the respective figures for the SPD were lower at 2.961 and 3.067, with standard errors of 0.799 and 0.893. The PSOE reverted from being significantly under represented among office holders in 1994, with a negative coefficient of  $-3.007$ , although with a standard error of 0.980, to having significant over representation in 1999 and 2002 at a level comparable to that of the rival Spanish People's Party. The respective positive

coefficients of the PSOE in 1999 and 2002 were 4.606 and 3.920, with standard errors of 0.707 and 0.765. The coefficients for the British Conservatives and CDU-CSU also altered over time, although in a more gradual fashion. While the Conservatives were under represented in 1994, with a negative coefficient but no statistical significance, the coefficient then became positive. The coefficient of 2.915 reached statistical significance only in 2002, with a standard error of 1.044 indicating greater variance than in some of the other cases. The CDU-CSU increased their over representation among office holders in the EPP Group very significantly following the elections of 1999, rising to respective positive coefficients of 7.148 and 7.581 with comparatively low standard errors of 1.138 and 1.220 in 1999 and 2002. The Italian Democrats of the Left and Socialists (DS-SDI) were comparatively over represented within the PES Group, except at the beginning of the 1994 Parliament. However, their coefficient at 1.441, with a relatively high variance indicated by a standard error of 0.587, was statistically significant only in 1997.

**Table 4.6: OLS regression of EPP and PES office holders<sup>37</sup> according to national party delegation, 1994-2002**

	1994	1997	1999	2002	Pooled
Constant	-0.106(0.290)	-0.437(0.290)	-0.149(0.188)	-0.210(0.203)	-0.129(0.120)
Size of national party delegation	0.245(0.040)***	0.209(0.040)***	0.093(0.021)***	0.083(0.022)***	0.136(0.012)***
Labour	-1.284(2.452)	0.265(2.446)	6.263(0.753)***	5.620(0.796)***	4.847(0.667)***
SPD	-0.674(1.585)	1.106(1.590)	2.961(0.799)***	3.067(0.893)***	2.526(0.581)***
PS (F)	-0.703(0.884)	-0.681(0.895)	-0.042(0.655)	0.133(0.707)	-0.262(0.452)
PSOE	-3.007(0.980)***	-1.973(1.1014)*	4.606(0.707)***	3.920(0.765)***	1.227(0.472)**
DS and SDI	-0.166(0.565)	1.441(0.587)**	0.256(0.396)	0.315(0.426)	0.637(0.300)**
Conservatives	-1.260(0.906)	0.660(0.937)	1.332(0.983)	2.915(1.044)***	0.924(0.514)*
CDU-CSU	0.642(1.853)	3.645(1.846)*	7.148(1.138)***	7.581(1.220)***	5.810(0.685)***
RPR (since 1999) and UDF	0.044(0.850)	-1.203(0.929)	-1.044(0.561)*	0.075(0.600)	-0.965(0.582)*
PP	0.270(1.181)	3.612(1.196)	4.464(0.722)***	3.709(0.778)***	3.569(0.504)***
PPI and allies	-0.508(0.454)	-0.366(0.492)	-	-	-
Forza (since 1999) and UDC	-	-	0.260(0.334)	0.268(0.361)	-0.002(0.298)
Left-Right distance	-0.304(1.743)	0.704(2.199)	-0.179(0.881)	0.063(0.950)	-0.660(0.735)
Pro/Anti distance	-0.338(0.964)	-0.270(1.671)	1.160(0.959)	0.376(1.039)	0.669(0.575)
R <sup>2</sup>	0.977	0.967	0.971	0.963	0.932
n	33	40	48	48	169

Standard errors in parentheses. \*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$ .

Baseline: Delegations other than the largest from each of the PES and EPP groups in the five largest member states.

Dependent variable: the number of office positions per national party delegation in each of the two largest groups.

NOMINATE roll call data, 1994-2001, made available from the "How MEPs Vote" project, funded by the Economic and Social Research Council, code L213 25 2019, as part of the 'One Europe or Several?' series.

<sup>37</sup> Office defined as: Group leader, President, Vice-President or Quaestor of Parliament, Committee Chair, or Group Co-ordinator on Committee. The reported coefficients are for office held by national party delegation. For descriptive statistics, see Appendix, Tables A3 and A4.

Among the delegations from the five largest member states, the notable cases of under representation among group office holders were among the MEPs of the French and Italian centre-right. The figures for 1994 and 1997 include the Union for French Democracy only, since the Gaullists did not join the EPP Group until 1999. The French centre-right's results were barely significant only in 1999 and when considering the pooled data. The former negative coefficient was  $-1.044$ , with a standard error of  $0.561$ , while that from the pooled data was also negative at  $-0.965$ , but with high variance indicated by a standard error of  $0.582$ . Among the Italians, the centre-left Italian People's Party and other smaller allies were the only delegation in 1994 to be part of the EPP Group with 12 MEPs. Their coefficients were negative but without statistical significance. Forza Italia joined the group only in 1998. The results computed for 1999 and 2002 were positive but without statistical significance.

Comparing different delegations across year ranges, we find that the only significant result in 1994 was the under representation in office of the PSOE. In 1997 a positive coefficient of statistical significance indicated *over representation* for the DS-SDI, and coefficients that were positive for the CDU-CSU and still negative for the PSOE. In 1999 and 2002, significant positive coefficients were identified for Labour, the SPD, PSOE, CDU-CSU, and Spanish People's Party. For the British Conservatives such significance applied only in 2002, while a significant negative coefficient applied to the French centre-right in 1999 only.

#### **4.5. Conclusion**

Positions of influence within the Parliament are shared proportionately between the political groups. The larger groups also share out key positions internally, with the



smaller delegations often revolving office. The smaller groups have more limited access to office, for example the only committee chaired by a Green in 1994 was the Women's Rights and Equal Opportunities Committee, considered the least important. However, the Greens were allocated this committee within Parliament's unwritten rules of D'Hondt preference ordering, which reflected their meagre representation at the time.

Since 1999, the distribution of office was marginally more proportional between groups. This was probably due to fewer fluctuations in the size of groups. However, competition between the larger groups is more intense, although elections to committee chairs are not contested competitively. Whereas the larger groups agreed to share out key committee leadership roles between them, the only important committees controlled by the Socialists after 1999 were Economic and Monetary Affairs, Budgets, and Industry. Increased competition took the form of a suspension in logrolling between the two large groups that had hitherto been practiced, and by a stricter observance of the D'Hondt formula, which is an embedded consensual mechanism for containing competition.

Proportionality does not apply to the attribution of committee co-ordinators within the two large groups. The co-ordinator positions are monopolised by northern Europeans, the Spanish and the Greeks, but not the French. Often a group selects a specialist as co-ordinator on a particular committee. However, the disproportionate allocation of co-ordinators is not sufficient to distort the more *global* picture of office distribution within the two large groups (Table 4.6).

The increased legislative powers of the Parliament, competitive partisan dynamic with the Council, and increased competition within the Parliament provide a challenge for its constituent groups. Any resultant competition is contained by institutionalised

power sharing. Those national delegations or groups that are either under represented in office, including those of co-ordinator or rapporteur (Chapter 5), or who hold chairs of only minor committees are distanced from influence on outcomes, although this is often due to self-exclusion, rather than being the result of a situation with clear winners and losers.

The evidence presented in this chapter indicates the correctness of hypothesis 2a that despite a slight increase in office competition, the proportional attribution of positions remains intact. This can be understood in terms of the pork barrel that assumes politicians will need to make alliances with each other in order to secure outcomes, in this case, policy or prestige arising from office. However, the role of the separation of powers between Parliament and the Council and Commission that are equally divided in terms of party and nationality is probably more significant. MEPs will only achieve outcomes they desire by either allying with elements in the other institutions, or challenging them convincingly. For this to be achieved, the construction of multi-party consensus by sharing office across an overwhelming majority of tendencies is the one of most efficient means.

In the analysis of the European Parliament, members of the competitivist school (Hix, Kreppel, and Noury 2003; Hix, Noury, and Roland 2005; Kreppel 2000) identify increasing competition between left and right with regard to legislative decision-making. The application of this preconception to the field of legislative office, such as committee chairs, would lead us to assume not just a suspension of logrolling between the two large groups, but party based competition with visible *losers* for key committee leadership positions. As this chapter has shown, such a development has not occurred, indeed proportionality in legislative office distribution

occurred to a greater extent since 1999. This reflects the Parliament's embedded mechanisms for consensus.

## **5. Competition, Consensus, and the Appointment of Rapporteurs, 1994-2002**

This chapter looks at which groups and national parties secure the offices that allow them to influence legislative content. However, as with other chapters, I maintain that consensus in the European Parliament is path dependent. Although there were only seventeen committee chairs available, there were almost 1,000 legislative and own-initiative reports for the political groups and committees to allocate to MEPs during the first two years of the 1999 Parliament alone. It is rapporteurs that affect legislative outcomes. Rapporteurs are MEPs chosen by their committee to draft a report on legislation or any other issue selected by the Parliament. The role of the rapporteur is to consult with other members, and depending on the nature of the report, to meet with leading figures in other political groups and institutions. He or she will then take responsibility for guiding the report and Parliament's response to the legislative proposals through both the committee and the plenary, responding to and in turn proposing amendments. In the case of dispute with other European institutions, the rapporteur will also be one of Parliament's representatives in the negotiation process.

Hypothesis 2b concerning the proportional distribution of rapporteurs will be tested using statistical analysis to measure proportionality in the assignment of rapporteurs between political groups and their constituent national parties. The use of statistics, with additional control and dummy variables to test for specific details, allows us to build an accurate picture of rapporteur distribution, given such a high number of rapporteurs in the sample ( $n=2058$ ). This complements the data and conclusions drawn in the previous chapter and particularly with regard to the roll call votes measured in Chapter 3. Although I do not expect the obvious identification of winners and losers in the fight for rapporteurs, it is likely that within the political groups,

national delegations whose attendance records are low, who lack a high number of experts, or suffer from high turnover will be under represented, as was the case among office holders in the previous chapter.

In the first part of the chapter, I explain the role of rapporteurs and draw on the existing literature concerning their distribution, before linking this with a wider theory on institutionalised consensus. In the second part of the chapter, I present the data on rapporteur distribution, across the period of 1996 to 1998 and, following the elections of 1999 and entry into force of the Amsterdam Treaty, the period of 1999 to 2001. A discussion on the findings of the data and conclusion then follow.

### **5.1. Cause for Consensus: Appointment and Powers of Rapporteurs**

Benedetto (2005a), Corbett, Jacobs, and Shackleton (2003: 115-121), and Mamadouh and Raunio (2003) offer an analysis of the importance of rapporteurs within the legislative process of the EU. The mechanism of their appointment depends on unwritten rules that contribute to embedded consensus. The influence of rapporteurs on the outcome of legislation can be significant, so we might expect some level of competition to occur during the appointment process. However, when the distribution of reports is not proportional, much will depend on rapporteur self-selection according to expertise and experience, rather than competition in which there are winners and losers. Each committee adopts different norms in its appointment process. In practice, rapporteurs are elected by acclamation once the political group co-ordinators have decided on their allocation. This is normally done by a points system whereby political groups bid for a report, according to the number of points remaining. Points are assigned according to the total number of MEPs that

each political group has either in the Parliament or on the committee. Once a group has spent all its points, then points are added to the remaining totals of all the groups according to the original formula. The onus is on the rapporteur to build consensus if they hope for what they draft to be acceptable to a broad majority in the Parliament. This is important for votes that require the approval of an absolute majority of MEPs, such as amendments to the budget or co-decision legislation at second reading.

It is also common for important reports to be rotated or shared between the major political groups. Examples of this are the annual reports on the budget and the SOCRATES report of 1994. SOCRATES was allocated as a joint report to Michael Elliott of the Socialists, Doris Pack of the EPP and Joan Vallvé, a Catalan member of the Liberal Group (Benedetto 2005a). The report extended community competence in the fields of school and university education, while the programme was originally assigned a budget exceeding one billion ECU, the most ambitious measure ever considered by the Culture Committee. The two large groups could not decide who would take responsibility for the report so a joint report was considered the solution.

There are significant costs as well as benefits in accepting a report. They are often time consuming and hard work, which may reduce the incentives for competition. In the 1980s, Michael Elliott once resigned a report on food additives during the committee stage when he realised that his views were at odds with those of the committee as a whole,<sup>38</sup> which is an outcome if the appointment of rapporteurs is not consensual. Mamadouh and Raunio (2003) argue that skilful members are always in the position of being able to influence legislation in other ways, by placing pressure on rapporteurs and committee chairs or using the political group system. Meanwhile, other members are unable to draft a report with which both they and the majority in

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<sup>38</sup> Interview, Michael Elliott, London, August 2001.

Parliament would agree. Nuala Ahern, the Green rapporteur on the directive for the SAVE II programme for providing incentives for energy saving measures, explained that the difference between her own group and the others was that energy conservation is a greater priority for Greens. Under these circumstances, she was content to accept responsibility for the report.<sup>39</sup>

Looking at data from the 1989 to 1999 period, Mamadouh and Raunio (2003) found that the auction system of allocating reports favours the largest groups, the EPP and the Socialists. They concluded that the size of groups is a good predictor of how the total number of reports is assigned, with a correlation coefficient of 0.95. Those opposed to integration tend to be more interested in campaigning and to opt for self-exclusion.<sup>40</sup> However, when measuring the attribution of 2,058 reports,<sup>41</sup> according to the national party of the rapporteur, between 1996 and 1998 and from 1999 to 2001, I found that the correlation of 0.948 was almost identical and indicative of high proportionality, given such a large sample size (Appendix: Table A5). The three larger groups produce slightly more reports than would be expected from their size. Although the Radical Left was larger than the Green Group in the 1994-1999 Parliament, the Greens still produced a greater number of reports. This is presumably because they are less anti-system than the Radical Left or because their areas of interest, like the environment, tend to be subject to the legislative competence of the European Parliament.

Mamadouh and Raunio (2003) also found that the member states that were more under represented in terms of the allocation of reports had a high representation of anti-system forces. The most scattered delegation was that of the French MEPs who

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<sup>39</sup> Interview, Nuala Ahern MEP, Brussels, January 2001.

<sup>40</sup> Interview, Pierre Monzani, Deputy Secretary-General, UEN Group, Brussels, January 2001.

<sup>41</sup> These exclude reports that are “opinions” produced parallel to the main report by another committee. For example, legislation that implies spending will often require an “opinion” from the Budgets Committee, which will appoint a rapporteur to produce it.

sat in eight political groups in 1989, and had comparatively meagre representation in the two largest groups, the EPP and the Socialists. The French were also dominant in some of the smaller groups, like the EDA, the United Left, the European Right in 1989 and the ERA and IEN Groups in 1994. It is precisely groups of this kind that receive proportionately fewer reports. This does not significantly distort the overall proportionality, since these groups account for only a small minority of MEPs. Table A5 shows that for France, with 87 MEPs, the same as Great Britain and Italy, there were 126 rapporteurs during 1996 to 1998,<sup>42</sup> compared to 176 from Great Britain. Following the 1999 elections, there were 64 French rapporteurs, compared to 154 from Great Britain, 81 from Italy, and 124 from Spain, in the latter case drawn from 64 MEPs. The French were notably under represented among co-decision rapporteurs, with just 19, compared to 57 from Britain, 37 from Spain, and 25 from Italy. Bryder (1998), Mamadouh and Raunio (2003), and Scarrow (1997) would expect the British and Germans to benefit in particular at the expense of French and Italian MEPs, on account of differing levels of turnover at EP elections, attendance at Parliament, and commitment to gaining expertise in the relevant policy areas. Table 5.1 tests for the allocation of reports according to nationality, continuity in the European Parliament, and levels of attendance at plenary, as well as the distance of national party delegations from the mean left-right and pro and anti-integration positions of their groups, as tested for *office* in the previous chapter.

The competitivist school (Hix, Kreppel, Noury, 2003; Hix, Noury, Roland, 2005; Kreppel 2000) has identified instances of increasing competition between left and

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<sup>42</sup> I have selected the period of November 1996 to June 1998 for comparative purposes because it is the only period of stability in political group representation during the 1994-1999 Parliament. The state of the groups had changed following the Enlargement of 1995, the merger of the Forza Europa and EDA Groups into the UPE in July 1995 and the defection of the Portuguese Social Democrats from the ELDR to the EPP in November 1996. In June 1998 Forza Italia in turn defected from the UPE to the EPP.



right in legislative voting. Application of its assumptions to the case of rapporteur appointment, particularly in view of the power of rapporteurs in determining the content of legislation (Benedetto 2005a), would presuppose that political groups aggressively compete for the appointment of rapporteurs. Hypothesis 2b challenges this view by predicting that the distribution of rapporteurs has remained proportional between political groups and national party delegations during the 1994 and 1999 parliaments, consistent with the path dependence of consensus. If the application of the competitivist school's notions of competition were correct, we would expect the distribution of rapporteurs, particularly under the co-decision procedure, to be skewed towards a *winning majority* in the form of the EPP and ELDR groups after 1999. If hypothesis 2b is correct, we would expect the distribution to remain broadly proportional and for any minor skew to be explained by self-selection based on a lack of expertise or interest, or by low attendance figures. A series of ordinary least squares regressions, with dummy variables of 1 or 0 entered according to specificities such as the nationality or party of a rapporteur, allow us to test in detail the proportionality or otherwise of rapporteur distribution.

## **5.2. The Distribution of Rapporteurs**

The attribution of reports according to nationality is tested in Model A1 (regression of reports to national party delegation size, with control variables of the five larger member states) of Table 5.1. Because the control variables are limited in this regression, I have also run a further test for aggregate continuity and attendance<sup>43</sup>

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<sup>43</sup> Continuity is the percentage of MEPs representing any one national party, who were also members of the previous Parliament. Attendance is calculated for each national party as the mean attendance per day for members of that party.

levels, and left-right and pro anti-integration positions<sup>44</sup> of delegations within the EPP and Socialist groups. At least within the two largest groups, this test will reveal whether delegations with low attendance, low continuity, and greater distance from the ideological means of their groups are disadvantaged in the allocation of reports, as some of previous literature suggests might be the case. The regressions for Models A1 to A4 reported in Table 5.1 were computed as follows:

$$Y_{\text{rapporteurs}} = a + B_1 \text{SIZE\_OF\_NATIONAL\_PARTY\_DELEGATION} + B_2 \text{GERMAN(Yes or No)} + B_3 \text{BRITISH(Yes or No)} + B_4 \text{FRENCH(Yes or No)} + B_5 \text{ITALIAN(Yes or No)} + B_6 \text{SPANISH(Yes or No)} + B_7 \text{CONTINUITY} + B_8 \text{ATTENDANCE} + B_9 \text{LEFT-RIGHT\_DISTANCE\_FROM\_GROUP\_MEAN} + B_{10} \text{PRO/ANTI\_INTEGRATION\_DISTANCE\_FROM\_GROUP\_MEAN}$$

$Y_{\text{rapporteurs}}$  is the dependent variable for the number of rapporteurs per national party delegation,  $B_1$  is the independent variable and  $B_2$  to  $B_{10}$  are the control variables,  $B_2$  to  $B_6$  are dummy variables.

The size of a national party delegation is the most significant independent variable, with a positive coefficient of 1.874 and a minute standard error of 0.080, indicating almost zero variance. Together with an extremely high  $R^2$  of 0.968, this demonstrates a high level of proportionality in the assignment of reports. However, this is notably high in the case of German MEPs, by a coefficient of 9.629, significant at below the .05 point, and standard error of 4.048. More significant at below the .01 point, is the under representation of French MEPs who have a negative coefficient of –8.351 and standard error of 2.693. Although positively related to uptake of reports by national

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<sup>44</sup> Using the NOMINATE data from roll call votes analysed by the European Parliament Research Group, as part of the ‘How MEPs Vote’ project, code L213 25 2019, the positions on a left-right ideological scale and a pro and anti-European integration scale were calculated for each political group and each national party delegation thereof for both the Parliaments of 1994 and 1999. The distances between the position of each national party delegation and the means of their groups on these scales were entered.

delegation, continuity and attendance are not statistically significant. Ideological distance, be it left-right or pro or anti-integration, is not significant. The baseline is the national party delegations coming from the ten smaller states.

Model B1 of Table 5.2 similarly regresses all reports during 1996 to 1998 and 1999 to 2001 by the size of each national party delegation, though by political group and two largest national parties from each of the five largest states. The baseline is the EPP Group delegations from the ten smaller states. The regressions for Models B1 to B4 reported in Table 5.2 were computed as follows, with control variables for political group membership and membership of the largest delegations from the five largest member states:

$$Y_{\text{rapporteurs}} = a + B_1 \text{SIZE\_OF\_NATIONAL\_PARTY\_DELEGATION} + B_2 \text{PES\_MEMBERS(Yes or No)} + B_3 \text{ELDR\_MEMBERS(Yes or No)} + \dots$$

$Y_{\text{rapporteurs}}$  is the dependent variable for the number of rapporteurs per national party delegation,  $B_1$  is the independent variable and  $B_2$  onwards are dummy control variables.

Again, the number of MEPs in a national party delegation is the most significant factor, with a coefficient of 1.561 and minimal standard error of 0.078. Together with a high  $R^2$  of 0.950, this demonstrates high proportionality. Among the groups and consistent with the findings in Table A5, the Socialist, Liberal, and Green groups have positive coefficients, though without statistical significance. The ratio of EPP members to reports (Appendix: Table A5) is also very high at 1.99 during 1996 to 1998 and 1.67 just after 1999. Among the national parties, high and statistically significant coefficients of 34.433, 17.843, and 14.282 apply respectively to the CDU-CSU, British Conservatives, and Spanish PP, with relatively low standard errors suggesting limited variance. Statistically significant positive coefficients of 12.511,

9.459, and 8.370 also apply respectively to the SPD, Labour, and the PSOE.

Statistically significant negative coefficients apply to the Gaullist RPR at  $-6.299$ , the French Socialists at  $-5.885$ , and Forza Italia and its allies at  $-5.798$ . The variance was greater in the latter than in the former cases, indicated by respective standard errors of 3.137, 3.267, and 2.280.

**Table 5.1: OLS regression of rapporteurs to member state, national party delegation, continuity, attendance, and ideological location**

	Model A1	Model A2	Model A3	Model A4
constant	-7.857(5.775)	-2.453(3.277)	-23.821(8.159)***	4.517(9.172)
size of national party delegation	1.874(0.080)***	0.360(0.045)***	1.680(0.113)***	1.966(0.115)***
Germany	9.629(4.048)**	2.942(2.297)	20.460(5.500)***	2.865(5.836)
Britain	1.992(2.830)	-0.247(1.606)	11.816(4.553)**	-1.071(3.646)
France	-8.351(2.693)***	-2.059(1.528)	-7.148(4.738)	-11.299(3.264)***
Italy	-2.345(2.128)	-1.736(1.207)	-0.477(2.824)	-5.743(3.148)*
Spain	3.156(2.633)	-0.910(1.494)	5.271(4.042)	2.702(3.359)
Continuity	0.015(0.023)	0.008(0.013)	0.053(0.030)*	-0.021(0.034)
Attendance	0.075(0.062)	0.017(0.035)	0.238(0.091)**	-0.042(0.090)
L-R distance	-5.266(6.118)	-1.175(3.472)	-24.099(19.246)	-4.237(6.271)
Pro/Anti distance	-1.169(6.550)	2.751(3.717)	8.221(13.869)	-2.975(8.994)
R <sup>2</sup>	0.968	0.789	0.979	0.975
n	201	201	97	104

\*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

Baseline: parties from the ten smaller states.

Dependent variable: number of rapporteurs per national party delegation illustrated by the four models.

Model A1: All Reports, 1996-1998 and 1999-2001.

Model A2: Co-decision Reports, 1996-1998 and 1999-2001.

Model A3: All Reports, 1996-1998.

Model A4: All Reports, 1999-2001.

**Table 5.2: OLS regression of rapporteurs to political group and national party delegation**

	Model B1	Model B2	Model B3	Model B4
constant	-1.000(0.651)	0.052(0.277)	-0.881(0.991)	-0.190(0.804)
size of national party delegation	1.561(0.078)***	0.200(0.033)***	1.616(0.125)***	1.354(0.115)***
PES	1.500(1.058)	0.366(0.450)	0.450(1.521)	2.390(1.248)
ELDR	1.358(0.936)	0.167(0.398)	1.408(1.345)	0.921(1.118)
Greens	1.493(1.013)	0.700(0.431)	1.055(1.590)	1.458(1.119)
EUL	-0.831(1.041)	-0.357(0.443)	-0.934(1.641)	-1.157(1.146)
UPE-UEN	-0.682(1.350)	-0.740(0.574)	-0.490(1.965)	-2.932(1.706)*
IEN-EDD	-0.853(1.442)	-0.112(0.613)	1.586(2.081)	-3.742(1.690)**
CDU-CSU	34.433(4.673)***	14.443(1.988)***	31.918(6.848)***	44.446(6.668)***
SPD	12.511(3.945)***	4.778(1.678)***	19.781(6.227)***	9.129(4.842)*
Conservatives	17.843(3.501)***	2.045(1.489)	25.789(4.661)***	15.458(5.113)***
Labour	9.459(4.414)**	8.978(1.878)***	12.224(8.375)	8.544(4.549)*
RPR	-6.299(3.137)**	-1.083(1.335)	-1.105(4.892)	-11.054(3.653)***
PS (F)	-5.885(3.267)*	-0.120(1.390)	-9.813(4.631)**	1.020(4.112)
Forza-UDC	-5.798(2.280)**	0.132(0.970)	-2.810(3.414)	-7.907(2.749)***
DS-SDI	0.588(2.297)	-1.169(0.977)	2.077(3.331)	-0.529(2.686)
PP	14.282(3.541)***	3.345(1.506)**	9.626(5.238)*	22.288(4.492)***
PSOE	8.370(3.380)**	2.080(1.438)	8.490(4.881)*	11.312(4.226)***
R <sup>2</sup>	0.950	0.800	0.961	0.962
n	201	201	97	104

\*  $p < .1$ , \*\*  $p < .05$ , \*\*\*  $p < .01$

Baseline: EPP parties of government from outside the five largest states.

Dependent variable: number of rapporteurs per national party delegation illustrated by the four models.

Model B1: All Reports, 1996-1998 and 1999-2001.

Model B2: Co-decision Reports, 1996-1998 and 1999-2001.

Model B3: All Reports, 1996-1998.

Model B4: All Reports, 1999-2001.

Under the co-decision procedure, the respective rapporteur and committee chair for legislation are in a powerful position since they are automatically part of the Parliament's formal and informal delegations to negotiate with the Council and Commission on the content of legislation. In a competitive legislative system, we would therefore expect the political groups to compete in order to secure the appointment of co-decision rapporteurs. Model B2 of Table 5.2 regresses the number of MEPs in a national party delegation against co-decision reports during both periods, establishing the political groups and two largest national parties from each of the five largest member states as the control variables. The baseline is EPP delegations from the ten smaller states. The coefficient of the number of MEPs in a delegation remains highly significant at 0.200 with a minimal standard error of 0.033, however proportionality falls with a lower  $R^2$  of 0.800, by comparison with all reports (see Models A1 and B1). Taking the EPP's smaller delegations as the baseline, no group was over represented with statistical significance. However, the representation of the Greens, whose coefficient was 0.700 and standard error 0.431, was almost significant given their  $p$  value of 0.106. Table A5 shows that the Greens took responsibility for 34 co-decision reports, a high figure in view of their relatively meagre representation in the Parliament. This suggests that Greens selected themselves for powerful reports according to policy interest. Among the national party delegations, over representations significant at below the .01 point applied to the CDU-CSU, Labour, and the SPD, with respective coefficients of 14.443, 8.978, and 4.778, and restrained standard errors of 1.988, 1.878, and 1.678. In the case of Labour, like the Greens, policy preference may in part have explained this apparent self-selection. The Spanish PP enjoyed over allocation of co-decision rapporteurs, with statistical significance at below the .05 point, indicated by a coefficient of 3.345 and

standard error of 1.506. Negative coefficients without statistical significance applied to the RPR, French Socialists (PS), and DS-SDI. Model A2 (Table 5.1) is an application of the same regression, but using MEPs' countries of election, for the five largest states, as the control variables, along with continuity and attendance levels, and ideological distance from the respective group means of national delegations in the EPP and PES Groups. The baseline is national delegations from the ten smaller states. The size of a national party delegation is the only significant coefficient at 0.360, with a minimal standard error of 0.045. Taken with the  $R^2$  of 0.789, again lower than when considering all reports, this nevertheless indicates strong proportionality in the allocation of co-decision reports according to national party delegation. Between the five largest member states, the coefficients are not significant, although they are positive for Germany and negative for the other four larger states. Continuity and attendance are both positive. Although MEPs from national party delegations of the EPP and PES with lower turnover at EP elections and higher mean attendance levels are more likely to become rapporteurs, this is not significant. Ideological distance of a national party delegation from its group's mean is not a significant predictor of report allocation either.

The following models compare report allocation during the period of 1996 to 1998, with that following the 1999 elections. During the period of November 1996 to June 1998, 1,066 reports were produced. With 626 MEPs and 1,066 reports, the ratio of reports to members was 1.70. The ratio of reports to MEPs for the small groups, other than the Greens, was significantly less than the mean at 1.25 for the UPE, 1.09 for the Radical Left and just 0.13 for the IEN. The variance between the smaller groups is very high, with the Greens, Liberals, and Radicals (ERA) outperforming the more anti-system formations. Despite having more than thirty seats fewer than the



Socialists, the EPP was assigned almost as many reports (Appendix: Table A5). This indicates more about willingness to accept reports and take on legislative duties than about competition between different groups, in which there is a winner and a loser. During the first two years of the 1999 Parliament, 992 reports were produced, of which 239 fell under the co-decision procedure. With 626 MEPs and 992 reports, the ratio of reports to members is 1.58. In accordance with the findings of Mamadouh and Raunio (2003) with regard to previous parliaments, the EPP and Socialists are slightly over represented. The allocation of reports to the smaller groups is significantly less in proportional terms. The ratio falls for the Radical Left, UEN, and EDD.

Model B3 in Table 5.2 regresses reports to national party delegation size, during 1996 to 1998, with the political groups and two large national party delegations from the five largest states as control variables. The baseline is the EPP delegations from the ten smaller states. This result is then compared to Model B4, which regresses the same variables but with respect to the 1999-2001 period. A consistently significant coefficient applies to the size of national party delegation, at 1.616 in 1996 to 1998, and 1.354 in 1999 to 2001, with respective standard errors limited to 0.125 and 0.115. During both periods, the  $R^2$  does not differ substantially from 0.961 to 0.962. This indicates that despite the changes in alliances leading to the election of Nicole Fontaine as President of the European Parliament in 1999, the proportionality in report allocation between the groups did not alter. In 1996 to 1998, between the groups there were no statistically significant differences in report allocation. The Socialists, Liberals, Greens, and even the IEN had positive coefficients without statistical significance. The EPP group (Appendix: Table A5) was significantly over represented at this time with 361 reports to 181 MEPs. Following the elections of 1999, this modified, with the Socialists gaining proportionately more reports, as

indicated by an increased positive coefficient, though without statistical significance. The EDD, with 16 MEPs and only 2 reports was significantly under represented at – 3.742 and a standard error of 1.690. The coefficients were positive for the Greens and Liberals, yet negative for the Radical Left and UEN groups. When comparing national party delegations, we find a rise in the significant coefficients of the CDU-CSU from 31.918 to 44.446, with restrained standard errors of 6.848 and 6.668 respectively, and for both Spanish parties. The positive coefficients for the PP and PSOE were significant in 1996 to 1998 only at below the .1 level, yet they rose to significant respective levels at below the .01 level in 1999. The coefficient of the PP shifted from 9.626, with a standard error of 5.238 indicating substantial variance, to 22.288 with greatly reduced variance indicated by a standard error of 4.492. The coefficient of the PSOE shifted less substantially from 8.490 and standard error of 4.881 to 11.312, with the standard error falling in relative terms to 4.226. For the SPD and British Conservatives, the allocation of reports fell back, though retaining statistically significant positive coefficients during both periods. Dramatic declines occurred for both Forza Italia and the UDC, on one side, and the RPR on the other. The Italian Centre-Right declined from a negative coefficient of –2.810 to a significant –7.907, with a standard error of 2.749. The fall of the RPR was more significant, from –1.105 to a new level of –11.054, with a standard error of 3.653. The French Socialists reverted from a negative coefficient, significant at below the .05 point of –9.813 to a positive coefficient without significance. Labour’s coefficient declined from a relatively high 12.224 that was without significance given the huge standard error of 8.375, to a coefficient of 8.544 significant at below the .1 point. Labour had comparatively fewer reports in terms proportional to its number of MEPs following the 1999 elections, although those reports were more evenly spread. The results for

the Italian Left were not significant, indicating neither under nor over representation in the allocation of rapporteurs. However the large standard errors particularly for Labour in the 1994 Parliament confirm the presence of what Kreppel (2002a) defines as ‘super rapporteurs’ who take on many reports even simultaneously, compensating in statistical terms for many of their national party colleagues who are never appointed as rapporteurs. At that moment, Labour MEPs chaired both the Social Affairs and Environment committees, and were appointed as default rapporteurs in the cases of non-agreement or if no other MEP wished to bid for a report.

Regressions in Models A3 (for 1996 to 1998) and A4 (for 1999 to 2001) were run, to measure report allocation to national party delegation, taking each of the five larger states as control variables, with levels of continuity, attendance, and ideological distance from the group’s mean for each national party delegation in the EPP and PES Groups (Table 5.1). In both periods, using the same data, high levels of proportionality were reported by the  $R^2$  of 0.979 and 0.975, and statically significant, positive coefficients for size of national party delegation at 1.680 and 1.966 respectively. Being a German MEP was highly significant during 1996 to 1998, by a coefficient of 20.460 and standard error of 5.500, falling to a still positive though not significant coefficient of 2.865 between 1999 and 2001. There was likewise a fall for the British from a significant 11.816 to a not significant –1.071, presumably due to the change of electoral system in Great Britain resulting in a high turnover in 1999, *culling* expertise. The coefficients were positive though not significant for the Spanish, while they were negative for the French and Italians. While not significant in 1996 to 1998, the negative coefficients for the latter two nationalities grew and became significant in 1999 to 2001, standing at respective levels of –11.299 and –5.743. The standard errors were a restrained 3.264 for the French and 3.148 for the

Italians. The under-performance of the French, identified by Mamadouh and Raunio (2003) in the early 1990s had exacerbated ten years later.

During 1996 to 1998, continuity and attendance of national delegations in the EPP and PES had positive coefficients, both of which were significant. However, these coefficients become marginally negative by 1999, although this was not significant. Ideological distance of national party delegations of the EPP and PES from their group's means were not significant at any time, indicating that rebelliousness in voting behaviour did not result in an under-allocation of reports to MEPs from particular member parties.

### **5.3. Discussion and Conclusion**

On the global scale, it appears that proportionality continues to apply for allocating reports with respect to the size of national party delegation, as well as between political group. This was probably due in part to fewer fluctuations in group size than during the Parliament of 1994 to 1999. However this was not so between different delegations within political groups, most likely to be due to self-selection based on attendance, experience, and expertise, rather than active exclusion. In these two periods it is clear that the EPP, Liberals, and, particularly, the Greens had more than their fair share of reports. The changes were that the Socialists increased their proportion. In 1999, the smaller groups accounted for only 18 percent of Parliament's membership, but even as a small, anti-system minority were able to gain some positions. Despite the broad proportionality, the French and Italian delegations within both of the main groups were notably under represented in report allocation during 1996 to 1998, a situation that worsened in 1999. The under representation of the

smaller groups is for reasons of anti-system *self-exclusion* rather than their active exclusion by other groups. For example, Eurosceptics are interested in spending their time doing other things. However the increase in Socialist activity in the preparation of reports may be explained by the increased powers of the Parliament, as well as the decreased representation of the Socialist Group, meaning that its members are more likely to secure favourable legislative outcomes by participating actively in the drafting of legislation. Table A5 (see Appendix) shows that for the largest groups, since 1999, the ratios of reports to MEPs varied from 1.75 for the Greens to 1.57 for the ELDR. Tables 5.1 and 5.2 reveal broad proportionality in rapporteur distribution, indicated by large  $R^2$ s and the consistent status of the *size of national party delegation* as the most significant indicator of report uptake: the larger a national party delegation, the more rapporteurs it would have. Between the nationalities from the larger member states, German MEPs were significantly *over represented* among rapporteurs during both periods, but particularly during 1996 to 1998 (Table 5.1). French MEPs were significantly under represented during both periods, but particularly in 1999 to 2001, while the same applied to Italian MEPs only in 1999 to 2001. Between the political groups, the high attribution of reports under the co-decision procedure just missed significance with respect to the Greens (Table 5.2). During the period of 1999 to 2001, only, the UEN and EDD groups were significantly under represented, although this was not relevant for Parliament as a whole since these two groups accounted for just 46 out of 626 MEPs. When analysing the national party delegations, we find that the CDU-CSU, SPD, and Spanish PP are consistently and significantly over represented. This was true for the British Conservatives and PSOE except with regard to reports under the co-decision procedure, and for Labour except in the case of non-co-decision reports during 1996 to 1998. The RPR and

Forza Italia were significantly under represented in overall terms, though particularly during the period of 1999 to 2001, while this applied to the French Socialists during 1996 to 1998. Whether in a positive or negative direction, the results for the DS-SDI were never significant. Finally, high continuity and attendance of members of the national party delegations of the EPP and PES were relevant factors linked to rapporteur distribution only in 1996 to 1998 (Table 5.1), while ideological placement of national party delegations was never relevant.

The increased legislative powers of the Parliament, competitive partisan dynamic with the Council, and increased competition within the Parliament provide a challenge for its constituent groups. Any resultant competition is contained by institutionalised consensual mechanisms. Those national delegations or groups that are under represented in office, including that of rapporteur, are distanced from influence on outcomes, although this is often due to self-exclusion, rather than being the result of a situation with clear winners and losers.

The findings presented in this chapter confirm the accuracy of hypothesis 2b. Despite a slight increase in office competition or self-exclusion at the margins or among those delegations with low continuity or attendance levels, proportionality still pertains to the attribution of positions whether within or between groups, as a rapporteur or other type of legislative office holder. This can be understood in terms of the pork barrel that assumes politicians will need to make alliances with each other in order to secure outcomes, in this case, policy arising from office. However, the role of the separation of powers between Parliament and the Council and Commission that are equally divided in terms of party and nationality is probably more significant. MEPs will only achieve outcomes they desire by either allying with elements in the other institutions, or challenging them convincingly. For this to be achieved, the

rapporteur system and the construction of multiparty consensus by sharing office across an overwhelming majority of tendencies is the most efficient means.

Rapporteurs pilot legislation through Parliament. If the assignment of legislative office were ever determined by competitive dynamics, we would expect to see this as strongest in the case of the rapporteurs. While the competitivist school (Hix, Kreppel, and Noury 2003; Hix, Noury, and Roland 2005; and Kreppel 2000) identifies increasing competition between left and right in legislative votes, its analysis would also predict competition between left and right in the appointment of rapporteurs in view of their influence over legislative content. The findings of this chapter have shown that such an assumption would be inaccurate. The method of rapporteur distribution remains proportional between groups and national party delegations and are part of Parliament's embedded mechanisms for consensus located within its unwritten rules.

## 6. Party Consensus and the European Parliament's Powers of Appointment, 1994-2002

While other work including Chapter 3 of this thesis has sought to measure consensus or competition in the light of legislative voting behaviour in the EP, this chapter tests the hypothesis that Parliament does not choose to compete in using its powers of assent or consultation in the appointment of the European Commission and the members of other supranational institutions. The logical outcome of the analyses of the competitivist school (Hix, Kreppel, and Noury 2003; Hix, Noury, and Roland 2005; Kreppel 2000) concerning competition in roll call votes, if applied to Parliament's powers of appointment, would be the insistence of a centre-left or centre-right majority in Parliament on imposing Commissioners to its tastes. In reality, broad consensus has predominated in terms of Parliament's relationships with other supranational institutions. Attempts were made to neutralise internal divisions that emerged concerning the attempted censure of the Santer Commission in 1999. As chapters 4 and 5 have shown, consensus applies to the allocation of leadership positions in the Parliament's internal hierarchy. The chapter shows that the separation of powers between the multiparty and multinational EU institutions, the desire of all the major political families to secure *representation* in the Commission, and the need to avoid excluding significant national elites in order to maintain the legitimacy of the EU all contribute to the path dependent consensus within the European Parliament. Politicians achieve office, not by campaigning for election in front of the public, but by forming alliances with other politicians. Nevertheless, Parliament attempts to extract further *de facto* and *de jure* powers during the appointments procedures. When it occurs, political competition in making appointments is conditioned more by inter-



institutional factors or government-opposition dynamics in domestic politics than by division within Parliament itself.

Appointments of high salience within the political system of the EU have usually been subject to the broadest consensus between the main political groups in Parliament, although specific national delegations or some of the smaller groups may differ in the levels of antagonism that they choose to show. Meanwhile, the political groups that would in any case vote through the approval of an incoming Commission may drag out the process of hearings in order to extract specific policy commitments. Since the ratification of Maastricht, Parliament's powers of appointment have allowed it to play an increasingly important role in the system of checks and balances of the EU (Gabel and Hix 2002; Hix and Lord 1996; Hix 2002; Westlake 1998).

Analysing the confirmation hearings that took place during the 1994 and 1999 Parliaments and the votes and debates at which members of each domestic party in the EP stated their approach will test the hypothesis that the EP retains internal cohesion during its procedures of appointment and censure. If this is correct, I would expect confirmation hearings to be the subject of overwhelming consensus in the Parliament, and that any competition or reserve about individual candidates to other institutions to take the form of critical speeches in plenary, being contained within the EP's embedded mechanisms for consensus. This would show that as the powers of the EP have extended and the EU has enlarged, the pressure for overwhelming consensus to ratify the appointment of Commissioners, Auditors, Central Bankers, and the Ombudsman has self-reinforced, in a way that is characteristic of path dependence.

In the first part of this chapter, I present a theoretical outline to apply institutionalised consensus to the European Parliament's powers of appointment. The second section focuses on the procedures for ratifying an incoming European

Commission and the power of censure, with regard to the events of 1994 and 1999.

The subsequent sections in turn look at the parliamentary consensus that is apparent in appointments of the EU Ombudsman and members of the Court of Auditors and Executive Board of the European Central Bank. A concluding section draws together the contents of the chapter in the light of the hypothesis and its implications for path dependent consensus.

### **6.1. Consensus, Appointment, and Censure of the European Commission**

The Treaty of Maastricht gave the Parliament an absolute veto power on the appointment of an incoming Commission, while allowing it to be merely *consulted* on the nomination of the President-designate of the Commission. In 1994, it became clear that this power of consultation was a *de facto* veto power, since any Commission President-designate rejected by Parliament would have found it politically impossible to continue his candidature. As Hix (2002) argues, the change passed at Amsterdam, that converted consultation on the Commission President to a vote of definitive approval, allowed the governments and Commission to gain in terms of transparency and efficiency, yet in so far as the governments perceived, this resulted in no loss of *de facto* power, since the events of 1994 had made it clear that Council would be unable to pursue a nomination already rejected by Parliament.

As discussed earlier, the EU is a political system based on a separation of powers, in which MEPs lack a clear government or opposition role. The Parliament, Council, and Commission are multiparty, multinational institutions, with the legislative and executive branches appointed or elected separately from each other. Only via consensus between politicians of differing ideological traditions in Parliament and

the other institutions can policy decisions be made and can policy-relevant appointments to the Commission and other institutions be agreed. Tables 2.5 and 2.6 in Chapter 2 show that between the beginnings of the 1994 and 1999 Parliaments, the number of MEPs from domestic opposition parties not represented on the European Commission rose significantly, and within the EPP Group in particular. As such, we would expect MEPs from parties in opposition both at the domestic and European levels to behave with greater antagonism during the appointment process for the European Commission, and on the occasion of censure votes. The fall in cohesion within the EP is therefore due more to the relative success of opposition parties in EP elections than to any change in institutional powers conditioning a change in behaviour.

Martin Westlake (1998: 437) argues that the Council was determined never to repeat the experience of Parliament's near rejection of Jacques Santer as Commission President in July 1994. In 1981 Gaston Thorn and in 1985 Jacques Delors, had allowed their Commissions-designate to be subject to an own-initiative vote of approval by the Parliament. Furthermore, the Delors Commissions of 1989 and 1993 did not take office until they had been approved by Parliament (Westlake 1998: 438). This had established a precedent, institutionalised by the Treaty of Maastricht. Maastricht was innovative by allowing for the candidate for Commission presidency to be voted on separately from his team. Maastricht also synchronised the terms of office of both EP and Commission for five years. Following the EP elections in June and its first sitting in July, hearings and votes of approval would be held in the autumn in order for an incoming Commission to assume office the following January. The same EP that would approve the appointment of the Commission and its legislative programme would also pass the legislation that it proposed. Combined with the

increased legislative powers of the EP under Maastricht and Amsterdam, the Commission could no longer pursue a legislative programme out of step with the wishes of the EP (Westlake 1998: 442). On this point, Magnette (2001) differs from Westlake, arguing that the effect of domestic political considerations on the functioning of Parliament undermines its ability to obstruct the wishes of the Council during the Commission appointment or censure procedures.

Gabel and Hix (2002) and Hix (2002) argue that the EP's own Rules of Procedure post-Maastricht were designed to maximise its influence on outcomes, whether with regard to legislation or appointment of the Commission. Rule 32.1 requires that the 'President [of the EP] shall request the nominee [for Commission President] to make a statement and present his political guidelines to Parliament. The statement shall be followed by a debate. The Council shall be invited to take part in the debate'. The treaties merely state that the EP is consulted about this nomination or, after Amsterdam, will grant its assent. The requirement for a debate and for the Council to justify its choice of candidate was novel and increased the EP's *de facto* powers. Rule 32.4 states simply that if the nominee is rejected, the governments are requested to nominate a new candidate. Although Maastricht *de jure* allowed the governments to ignore Parliament on this question, Parliament's Rules of Procedure deliberately did not foresee this.

While the treaties require that a vote of assent is held by Parliament on the approval of the whole Commission, Rule 33.1 takes this further by requiring Commissioners-designate to appear for questioning before the parliamentary committees corresponding to their respective policy portfolios. For the Commissions approved in both 1994 and 1999, Parliament's intention from the start was to follow the model of the US Senate hearings on appointments to the Federal Administration (Magnette

2001). The Senate rarely rejects appointments in Washington, although political opponents of the US President on Senate committees can give individual nominees a difficult time. The same occurred on the hearings concerning some of the more controversial members of the Prodi Commission in 1999.

Questions regarding the democratic deficit were addressed in the past by a presumption that the EU would only become *democratic* if it adopted a majoritarian parliamentary system (Magnette 2001: 292). As the EP gained more power, the crisis faced by the Santer Commission at the beginning of 1999 provided the perfect opportunity for MEPs to demonstrate their power to the other institutions by forcing the crisis via the censure procedure. This view, shared by many MEPs, is rooted in the socialisation of European politicians and commentators in domestic systems with a clear government-opposition dynamic, even if their national parliaments are elected by proportional representation. The EP has failed to develop along these lines, since it is constrained institutionally in a separation of powers, as well as being a multinational institution whose legitimacy requires that there are no visible *losers* in the opposition sense. The members of the European Commission are national politicians nominated by their governments, yet the EP has chosen to place 'competence' of nominees above party affiliation during its appointments process (Magnette 2001: 299). Socialist MEPs were content to voice support for the Conservative Chris Patten as Foreign Affairs Commissioner in 1999 on account of his *competence*, while Christian Democrats did likewise for Antonio Vitorino, the Socialist Commissioner for Justice and Internal Affairs, despite criticism against other Socialist Commissioners lacking competence. Magnette argues that for MEPs it is impossible to reject the appointments of governments, so the only way to raise objections is to highlight the perceived lack of competence of a nominee. Some left-

right polarisation has occurred on issues of competition policy, or social affairs, although many moderate Socialists will still support a neo-liberal Competition Commissioner, provided he/she is seen to act fairly. Rather than politicising the process, Parliament has gone out of the way to insist on the almost depoliticisation of the Commission, although this may have been the only way to maximise consensus in Parliament. In 1999 Frits Bolkestein had to undertake to resign as President of the Liberal International if appointed as Commissioner for the Internal Market, since MEPs saw party political office as incompatible with membership of the Commission. The appointment of ten Commissioners from Socialist parties, yet only five from the EPP in 1999 reflected the membership of the European Council that had nominated them, rather than the EP (Magnette 2001: 301). When challenged by the EPP Group in 1999 about this, Romano Prodi made clear his intention to ignore ideological division in favour of consensus and competence. There was nothing that the EP could do about this outcome, which underpinned the strength of consensus politics, because the only *opposition* in the EP to this oversized majority was the Radical Left Group, some of the Greens, the British Conservatives, and hard Eurosceptics on the right. The transnational party affiliations of the members of Prodi's Commission were reflected in 86.5 percent of the EP's membership, with the exception being the Radical Left, EDD, and non-attached groups. Besides the Commission, the only executive in Europe to enjoy such a disproportionately oversized majority is the Swiss Federal Council, a 'directorial' or collegiate executive, where 'election results have no effect on its composition' of the four major parties, reflecting the quasi-unanimity of the legislature (Magnette 2001: 302). This type of hyper-consensus democracy emerges from compromises to avoid polarisation and indecision in what would otherwise be highly fragmented and unstable political systems.

The 1999 appointment of the Prodi Commission displayed four clear fractures, preventing the formation of domestic-type parliamentary politics and reinforcing consensus (Judge and Earnshaw 2002: 356):

- no overlap between executive and legislature that exists in parliamentary systems, evident from the failure of the new Commission to reflect the results of the EP elections;
- the Commission does not monopolise executive power, which is shared with the Council;
- politicisation of the Commission's formation may in fact impair effective scrutiny by the EP if the Commission were *responsible* to only one part of the EP;
- parliamentary authorisation of the Commission's programme is limited by Commission dependence on outside interests, its responsibility to national governments as well as the EP, and the EP lacking a majority and being conditioned by the interests of its political groups and constituent national parties.

What about the Parliament's almost *nuclear* power of censure against the Commission? A motion of censure can be tabled by a political group or the signatures of five percent of MEPs and are usually supported by the same type of anti-system coalition that opposes the appointment of the Commission: the Radical Left and EDD Groups, some of the Greens, and the non-attached. To be successful, a motion of censure has to be passed by a two-thirds majority of MEPs, after which the Commission would leave office. There was widespread consensus to reject the motion of censure against the Commission of Jacques Santer tabled in 1997 on its handling of the BSE scandal concerning British beef. The small minority of anti-system MEPs were joined by most of those from France (57 out of the 67 voting) in supporting censure. Division was more national than ideological, with the overall bulk of MEPs from Germany, Britain, and the Netherlands rejecting censure (Magnette 2001: 304). Parliament's *depoliticisation* of the Commission continued in January 1999 when,

rather than censuring the Santer Commission or appointing a Committee of MEPs to investigate the Commission in greater detail, the EP appointed a committee of experts. This was the result of a consensual and technocratic rather than political dynamic (Magnette 2001: 305). The risks and costs of failure in any attempt to censure the Commission were too great, so the EP may have had little alternative but to maximise internal consensus in depoliticising the process. Parliament is not empowered to vote no confidence in the Commission, so there was an attempt by some MEPs to use censure as a proxy for no confidence. Following the preliminary report of the committee of experts and re-tabling of a censure motion in March 1999, the Commission resigned in order to avoid censure. However, the two-thirds majority against the Commission would not have been certain. It is possible that a majority of MEPs, falling short of two-thirds, would have voted for censure, with the Commission and a weakened Parliament both continuing in office. The desire to avoid such an institutional embarrassment constrains the behaviour of the EP unless it can unite both of the largest groups on such a contentious issue. The overlap of party loyalties between MEPs, governments on the Council who appointed the Commission, and on the Commission itself render this practically impossible. Magnette (2001: 308) argues that the applicability of the Swiss model to the collegiate Commission means that the distinction between majority and opposition are 'meaningless'. Appointment and censure of the Commission are therefore determined by questions of technical competence, while legalistic argument is used in discussing appointment or censure, since overwhelming consensus hides ideological division.

The consensus that pervades the appointment and censure procedures for the European Commission is path dependent. The EU was established as a multiparty, multinational polity, without a dominant group, and where national and party



affiliations overlap between institutions. The Commission and Council act by consensus and are multiparty, in a system of separation of powers comparable to Switzerland. Whereas the Swiss system arose through the need to share power between ethno-territorial segments, the multiparty nature of the Commission has occurred due to its appointment by the governments of differing ideological complexions. Institutional reality is what forces consensus within the Parliament on appointing the Commission.

Although there was some dissatisfaction from the Socialist Group at the initial nomination of Jacques Santer in 1994 and from some members of the EPP Group at the appointment of certain members of Romano Prodi's Commission in 1999, this was insignificant compared to what occurs during votes of confidence in national parliaments for incoming governments. Both the Santer and Prodi Commissions, as full multinational teams, were approved in a consensual manner by the main political groups, themselves multinational. The next sub-sections focus on the appointment of Jacques Santer's Commission, its downfall, and its replacement by Prodi's Commission.

#### **6.1.1. The Rise of Jacques Santer, 1994**

In the weeks leading to the end of the Greek presidency of the European Council in 1994, it seemed that most of the governments had settled on nominating the Social Christian Premier of Belgium, Jean-Luc Dehaene, as the successor of Jacques Delors at the European Commission. When the Heads of Government met for the Council in Corfu, in June 1994, John Major refused to accept the nomination of Dehaene because he was 'too federalist'. At an emergency Council especially convened under the new

German presidency in Brussels a few weeks later, Jacques Santer was nominated as Commission President. The nomination of the apparently less federalist Social Christian Premier of Luxembourg was accepted as a compromise by all the governments, including that of the United Kingdom. The members of the new EP, where domestic opposition parties not represented on the Council had enjoyed success at the elections earlier in June, were dismayed at the lack of prior consultation on the nomination of Santer, since many regarded themselves as near equal partners of the Council in appointing the Commission. Parliament's resolution on the Corfu European Council<sup>45</sup> called for 'a review of the whole procedure for appointing the President of the Commission during the 1996 IGC in order to make it more democratic and transparent'.

The Greek Foreign Minister, in his explanation of the failure of Corfu called for greater transparency in the future and further reforms, which later occurred at Amsterdam. Speaking for the Radical Left Group as well as many of the more moderate MEPs, Mihail Papayannakis attacked the Greek presidency for giving in to 'outright blackmail by the UK Government'. The same sentiment was expressed by Alexander Langer, of the Greens, 'the renewed use made of vetoes, isolationism and power politics in Corfu by a government beaten two weeks earlier at home over the European question, which then went to Corfu seeking revenge against its own people is obviously a disappointment'. Deputies from the centre-right were somewhat more conciliatory, with Pierferdinando Casini of Forza Europa, judging the outcome of Corfu as 'regrettable', while Hanja Maij-Weggen of the Dutch Christian Democrats criticised the Greek presidency for failing to carry out informal consultations in advance, prior to Dehaene being formally proposed. However, the Flemish Social

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<sup>45</sup> Joint resolution B4-0003, 0004, 0005, 0006, 0007 and 0009/94.

Christian, Raphael Chanterie, a member of Dehaene's party, expressed outrage at John Major describing Dehaene as 'unfit', with the retort that Major was surely unfit if he was disagreeing with the other eleven governments in order to 'pander to extremist tendencies within his own party'. Tom Spencer, speaking for the British Conservatives, who were nevertheless members of the EPP Group like Chanterie, repeated Major's assertion that 'less is better' with respect to Santer.<sup>46</sup>

Socialist Group members then argued with members of the EPP over whether Parliament should vote to reject Santer's nomination, not in connection with his individual qualities but in protest at the method of appointment used by the Council, described by Pauline Green, the leader of the Socialist Group, as 'squalid and shabby'. The Liberal Group revealed that despite his qualities, they would vote against Santer, who 'spoke as Prime Minister of Luxembourg and never asked to be President of the Commission'. Although many members of the EPP would have preferred Dehaene, it was clear that they would nevertheless vote for Santer, who was a member of the EPP and who had been nominated by their party leaders in government. The same was true for the smaller number of Socialist MEPs whose domestic parties were in government, although most of the Group was opposed to Santer. Fernando Moran Lopez of the PSOE defended Santer, in line with the policy of the Gonzalez government, on the grounds that although he was of the centre-right, Santer was a 'social' Christian. MEPs from the Belgian, Greek, and Luxembourg Socialist parties, Danish Social Democrats and Irish Labour Party, all in government, shared this outlook, arguing that voting against would have been counter-productive.

Among the smaller groups, opinion was divided, although the Radical Left, Green, and Radical (ERA) Groups on the left were united in opposing Santer. The only Green

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<sup>46</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 15 July 1994.

to vote in favour of Santer was the one elected in Luxembourg. Laura Gonzalez Alvarez of the Spanish United Left justified her opposition on account of policy rather than the internal machinations of the Council, while Claudia Roth of the Greens took the opposite view in her opposition to Santer:

‘The nomination of Jacques Santer is a deliberate decision by the Council in favour of weakening the Commission after the departure of Mr Delors and this, together with a weak Parliament, constitutes the ideal situation for further expansion of the Council’s power, for its ambition to manage affairs as it pleases without encountering any effective resistance.’

Gerard Collins, whose party leader in Ireland had approved the appointment of Santer, and Jean-Claude Pasty of the French Gaullists, both members of the EDA Group voiced support for Santer. The new Eurosceptic Group, the Independents for a Europe of Nations (IEN), divided between abstention and opposition. While the Dane, Jens-Peter Bonde, was opposed to any federalist, some of the French members of the group led by James Goldsmith were inclined to abstain, since they considered themselves to be part of the government majority in France. Within the Far Right the French National Front was opposed, while the Flemish Block decided to support Santer since Luxembourg is a small country like Flanders and that anybody would be better than that ‘failed Flemming’ Dehaene.<sup>47</sup> Pino Rauti of National Alliance, since a few months in government with Berlusconi’s Forza Italia, announced that his party would vote ‘Yes’ as a gesture of goodwill. Voting for Santer or abstaining offered the opportunity for some of the Eurosceptic or Far Right MEPs to prove themselves as *responsible* in supporting the position of the Berlusconi government.

Although the speeches of parliamentarians indicated displeasure at the rejection of Dehaene in favour of Santer, there was still consensus between Parliament and much

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<sup>47</sup> Karel Dillen MEP in Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 15 July 1994.

of the Council on the competence of Santer. The factor that undermined the attempts by the Socialist Group and others to reject the nomination of Santer was their own internal fragmentation. Compared to a national parliament in a majoritarian system, there remained overwhelming consensus in favour of the appointment of the Commission led by Santer, if not in favour of Santer himself. The situation of July 1994 in the European Parliament was as Magnette (2001) describes. Elements of the EP felt pressure to act like an opposition in a national parliament, but could not escape the institutional constraint to accept the decision of the governments. When it came to ratifying the Commission as a whole in January 1995, the technical competence of Santer and his team allowed it to form a non-political consensus that accepted his nomination.

**Table 6.1: Vote on the nomination of Jacques Santer as President of the Commission, 15 July 1994**

	EUL	Greens	PES	ERA	ELDR	EPP	EDA	FE	IEN	NA	Total
Yes	0	1	46	0	9	151	22	25	0	6	260
No	21	17	138	18	26	0	0	0	7	11	238
Abstention	0	2	6	0	6	1	0	0	8	0	23
Absent	7	2	8	3	3	3	5	3	3	9	46
Total	28	22	198	21	44	155	27	28	18	26	567

Jacques Santer was approved by a majority of only 22 MEPs, with 23 MEPs actively registering an abstention. If the members of the hard Eurosceptic and Far Right delegations, as well as the Luxembourg Green, had all voted against him, the result would have been a tie. Although the PES and ELDR Groups had voted by a large majority to oppose Santer, his parliamentary vote of approval depended on MEPs from PES and ELDR parties of government breaking ranks and voting for him.

On the same day a further resolution, proposed by the major groups including ELDR, Green, and EUL groups, was passed by Parliament on the special Council that had taken place in Brussels to nominate Santer. Radically, it called for the appointment procedure for the Commission to be replaced by a system of election, at the insistence of the Liberals. It also called on the Commission to establish a system of democratic control by the European Parliament. Reflecting the left-wing composition of the new parliament, the resolution demanded an economic policy for the creation of jobs and strengthening economic and social cohesion between the countries and regions of the Union, as well as commitments on the environment made at the Rio Summit to be put into practice.<sup>48</sup> These demands and policy concessions were extracted from the Commissioners-designate during the committee hearings on their nomination that autumn.

**Table 6.2: Vote on approval of the Santer Commission, 18 January 1995**

	EUL	Greens	PES	ERA	ELDR	EPP	EDA	FE	IEN	NA	Total
Yes	0	1	177	0	31	159	19	22	0	8	417
No	14	21	28	13	4	9	0	1	0	14	104
Abstention	16	0	9	0	13	4	3	0	14	0	59
Absent	0	4	7	8	4	0	5	5	4	9	46
Total	30	26	221	21	52	172	27	28	18	31	626

Following the nomination of Commissioners by the member governments, their hearings in committee, and the arrival of new MEPs from Austria, Finland, and Sweden in January 1995, the new Commission was put to the assent of Parliament. It was approved by a majority of 417 MEPs to 104, with 59 abstaining. The bulk of members from the Socialist, Liberal, EPP, EDA, and Forza Europa groups voted in

<sup>48</sup> B4-0010, 0011, 0013, 0014/1994.

favour, whether their domestic parties were in government or opposition. Although in opposition, the British Labour, French Socialist and German Social Democratic Parties, accounting for 115 MEPs alone, were able to each nominate a Commissioner by their national government, so their votes in favour of the new Commission were guaranteed. From the Socialists, the minority voting 'No' were however drawn from a minority of precisely those parties that had taken the hardest line against Santer the previous July. Although dissatisfaction with Santer persisted, there was collective approval of his team. From the Radical Left Group, the more reformist members from Spain, Italy, Denmark, Greece, and Finland abstained rather than voting 'No' to the new Commission. Ironically, most of the 'No' voters or abstainers to the Santer Commission from within the EPP were British Conservatives, even though the leader of their party had insisted on Santer's appointment in the first place and had nominated a British Conservative as Vice-President of the Commission. The eight members of the non-attached that voted in favour were drawn mainly from National Alliance in Italy that had recently been in government. The approval by Parliament of the Santer Commission was highly consensual, due to the support of all pro-system parties that were present in national governments or on the new Commission. Policy concessions by Santer and his team to both left and right also shored up further support in Parliament.

The Santer Commission held office until March 1999, when it resigned in order to avoid a vote of censure and removal from office being passed against it by the Parliament. This is the subject of the next sub-section.

### **6.1.2. The Threat of Censure and Resignation of the Santer Commission**

The threat of Parliament to remove the Santer Commission from office in March 1999 was sufficient to force the Commission's resignation. Events appeared to suggest that Parliament was an indispensable ally for any Commission and could extract its price, however the resignation had more to do with the Commission and the Socialist Group losing control of the situation. This subsection demonstrates the pervasiveness of consensus to contain ideological and inter-institutional competition, and illustrates the cost of consensus breaking down.

The Parliament passes the annual EU budget. Following the end of a financial year, a series of reports are submitted concerning how well EU funds have been spent. With regard to the 1996 financial year, the European Court of Auditors detected irregularities. Parliament voted against the recommendation of its own Committee for Budgetary Control by rejecting the proposed Discharge for the Union's accounts at the end of 1998. The Discharge is the annual vote by Parliament, once it has received reports from the auditors, to approve the spending of a particular year. The Commission was called to account for allegations of fraud in the budgets for research and training, coming under the responsibility of Edith Cresson, and humanitarian aid and development, for which Commissioners Manuel Marin and Emma Bonino were responsible.

Pauline Green of the PES Group tabled a motion of censure at the January 1999 sitting of the Parliament. At the end of 1998 she had warned that in the event of Discharge being rejected, the Socialist Group would table a logical motion of censure against the Commission, since there can be no confidence in a Commission whose financial competence is questioned (Judge and Earnshaw 2002: 350). The objective



was to use the threat of censure to force the Commission or its more responsible members to account fully for institutional mismanagement and put in place procedures to prevent any recurrence. As a college, the Commission is collectively responsible, so it was not possible to censure individual members. A two-thirds majority is required for a motion of censure to pass, so it is more difficult to pass than a simple vote of no confidence in a national parliament. By the beginning of 1999 a simple majority in a parliamentary motion calling for the Commission to resign would have been sufficient to achieve this end. While the accused Commissioners denied wrongdoing, Jacques Santer, as President, and Anita Gradin, Commissioner for Budgetary Control, felt the pressure to accept political responsibility and resign in the event that their guiltier colleagues did not. The Commission was granted a two-month reprieve by agreeing with Pauline Green and Wilfried Martens, leader of the EPP Group, to establish a committee of experts to investigate the allegations and make recommendations for how to improve management procedures. Pauline Green withdrew her motion of censure, which was replaced by another motion of censure tabled by the Eurosceptic IEN Group, marking a loss of control over events by the Socialists in trying to substitute censure for a vote of no confidence. Pauline Green was then compelled to defend a Commission, against which she had proposed censure and three of whose members under attack, Cresson, Marin, and Gradin, were Socialists:

‘We do not have the institutional right to cherry-pick amongst the College of Commissioners... It is for this reason that we will not support those resolutions from other political groups which are seeking to apportion blame for all the ills of the Commission on the heads of selected individuals against whom no case has yet been proven.’<sup>49</sup>

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<sup>49</sup> Pauline Green MEP in Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 11 January 1999.

Green justified her decision to use censure, an unsatisfactory yet *nuclear* option, as the only institutional means to call the Commission to account and a method that Parliament would use if the Commission were not forthcoming in improving its administration of funds. This was an occasion in which the consensus between the two large groups broke down, resulting in a collective loss. The EP was weakened through its link to the Commission that the Socialists had decided to target. Previous motions of censure had never been tabled by the leadership of the one of the largest groups and had always been defeated by large margins, reflecting a consensus against censure. The last time this had occurred was a motion of censure tabled against the Santer Commission in 1997 at the height of the BSE crisis affecting British beef, which three-quarters of MEPs voted against (Judge and Earnshaw 2002: 348). The events at the start of 1999 were exceptional and the pre-existing practice in consensual relations between Parliament and Commission was rapidly re-established. This demonstrates that institutionalised consensus was strong enough to withstand the crisis.

On behalf of the EPP Group, Martens voiced support for Santer, called for the introduction of proper codes of conduct for Commission staff and greater transparency. He opposed the use of motions of censure as surrogate votes of confidence and called for the debate on financial irregularities to continue between the Commission and Parliament's Budgetary Control Committee.

The attitude of the centrist Liberal Group was more oppositional in calling for Commissioners to take individual rather than collective responsibility:

'Last month the Commission empowered itself to demand of this House a vote of confidence through the censure route. The Commission has no legal right, as has been said, to do that. But *politically* it made the choice. This month we can borrow from the Commission's precedent. Let

Parliament empower itself to call on individual Commissioners to consider their positions even if no formal legal base exists.’<sup>50</sup>

Although Cresson and Marin were named in the Liberal resolution, Patrick Cox emphasised that his Group was making no presumptions about guilt or innocence, but that, ‘we are simply calling a political judgment that the rot in terms of mismanagement, irregularity, fraud and petty corruption will never stop if every Commissioner can constantly rely on the legal shield of collegiality and avoid personal responsibility’. Martens continued to offer support to Santer and acknowledged that he was taking responsibility as President, but asked whether other members of the Commission were also prepared to accept a share of the responsibility. Senior MEPs from the EPP Group then proceeded to target Cresson and Marin in particular.<sup>51</sup>

In his statement to the plenary, Santer listed the successes of his Commission, whether concerning policy, enlargement, budgetary reform, or introduction of the euro. The personnel for achieving this growth in competence were insufficient and led to shortcomings. As a solution, Santer suggested establishing the committee of experts to investigate the internal problems of the Commission and make recommendations. This undertaking was sufficient to buy his Commission two more months of life. The compromise typified the approach of otherwise warring parties in Parliament to constructing consensus, with the collusion of the Commission so that the investigative process became technocratic rather than political.

The vote on the Eurosceptics’ motion of censure was held three days later, after a shorter follow-up debate. Santer made a short statement, supporting the committee of

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<sup>50</sup> Patrick Cox MEP, Leader of the ELDR Group, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 11 January 1999.

<sup>51</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 11 January 1999.

experts and offering full co-operation. On behalf of the Socialists, Pauline Green cited the appointment of the experts as a 'major success for this Parliament', against protests from the EPP. She argued that the hecklers were bad losers and that this 'achievement' would never have been reached unless her Group had proposed a motion of censure in the first place.<sup>52</sup> In a tone of conciliation towards pro-system MEPs, Hervé Fabre-Aubrespy, author of the IEN Group's motion of censure, invited members to ask themselves very simply whether they had confidence in the Commission's integrity. Speaking for most of the EPP Group, Martens repeated the confidence he had expressed in Santer back in July 1994. The small ERA Group repeated its opposition to censure for the sake of stability, while National Alliance did likewise in the quest for coalitionability in Italy. For the Liberals, Cox again accused individual Commissioners of hiding behind the 'shield of collegiality'. The only logical conclusion was therefore to vote for censure against the Commission as a college. The Greens joined the Liberal and IEN Groups in favouring censure. Speaking for the UPE Group, successor to the EDA, Jean-Claude Pasty revealed divisions, with the French Gaullists favouring censure and Fianna Fail opposed. The Radical Left Group was also divided between those favouring censure and others who abstained or absented themselves from the vote in order to protest against the 'exploitation of motions of censure'.<sup>53</sup>

Although the vote was far short of the necessary two-thirds majority for censure to pass, 233 MEPs had nevertheless voted in favour (Table 6.3). Compared to the vote on confirming Santer as President-designate of the Commission in 1994, the patterns had shifted, with the majority of PES and ERA members voting against censure. 70

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<sup>52</sup> Pauline Green MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 14 January 1999.

<sup>53</sup> Alonso Puerta MEP, Verbatim Report of Proceedings, *Official Journal of the European Communities*, 14 January 1999.

MEPs from the EPP and 15 from the UPE groups, who had approved Santer in 1994, now chose to vote for censure, although the plurality of both the EPP and Socialist groups voted against censure. In part these changes can be explained by the change in which parties were in government or opposition. The by now *governmental* PES was more likely to favour the survival of the Santer Commission than had been the case in 1994, with the reverse being true for the EPP. Of the 37 PES members voting for censure, 28 were from the SPD. From the EPP, the CDU-CSU, British Conservatives, and Conservatives from Denmark and Sweden also voted for censure. In 1994, the then opposition Labour Party from Great Britain, one of whose members led the Socialist Group, had been in the forefront of the opposition to Santer, appointed by the British Conservatives. The reverse had now happened. The only ELDR members to oppose censure came from Finland and Luxembourg. Although the Socialists had originally proposed censure against the Commission, they rather than the centre-right were more inclined to defend the Commission when it came to voting.

**Table 6.3: Vote of censure against the Santer Commission, 14 January 1999**

	EUL	Greens	PES	ERA	ELDR	EPP	UPE	IEN	NA	TOTAL
Yes	18	25	37	4	32	70	15	14	18	233
No	3	0	158	13	6	91	11	0	10	292
Abstention	0	0	2	2	0	21	2	0	0	27
Absent	13	2	17	2	4	19	6	1	10	74
Total	34	27	214	21	42	201	34	15	38	626

### 6.1.3. Hiring and Firing the Executive in Switzerland

At this point, it is useful to compare the division over the censure of the Santer Commission with executive appointment in Switzerland. Consensus between the large groups was severely challenged by this event, but its breakdown was less severe than the most significant breakdown in Swiss consensus since 1959 that occurred in the elections for the Swiss executive in December 2003 (Church 2004b). Sitting members of the Swiss executive, the Federal Council, are usually re-elected by the vast majority of votes from deputies of the four largest parties in the Swiss Federal Assembly. However, this was not to be the case for Ruth Metzler of the Swiss Christian Democrats (CVP-PCD), whose party had fallen to fourth place behind the right-wing populist SVP-UDC (Table 6.4). The leader of the SVP-UDC Christoph Blocher directly challenged her for her position as Federal Councillor. Although the election results dictated that the CVP-PCD should lose one of its seats on the Federal Council to the SVP-UDC under the path dependent *magic formula* (Lane 2001), this competed with another path dependent norm that incumbent Federal Councillors are never unseated, which combined with a distaste by the Swiss Socialists for the politics of Blocher. Whereas the other five incumbent members of the Federal Council were each re-elected by margins of between 167 and 211 votes out of 246,<sup>54</sup> the Federal Assembly was evenly split between Blocher and Metzler, with each gaining 116 votes in the first round. Blocher was elected in the third round by a margin of just five votes<sup>55</sup> (Table 6.5). The contest between Blocher and Metzler was entirely unprecedented and had been the main story in Swiss politics for weeks following the

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<sup>54</sup> With the exception of Joseph Deiss, Metzler's party colleague from the CVP-PCD, who was challenged for his seat by Metzler once Blocher had defeated her. Deiss was re-elected by 138 votes against 96 for Metzler.

<sup>55</sup> See elections page at: [www.parliament.ch](http://www.parliament.ch)

parliamentary elections. Although Blocher's election broke with the institutionalised consensus of Swiss politics, its result was consensual in that membership of the executive continues to reflect party balance in the legislature.

**Table 6.4: Party representation in Swiss Federal Assembly, October 2003**

Swiss People's Party	SVP-UDC	64
Socialists	SP-PS	61
Radicals	FDP-PRD	54
Christian Democrats	CVP-PCD	43
Greens	GPS-PES	14
Others		10

**Table 6.5: Election of Swiss Federal Council by Federal Assembly, 10 December 2003**

Candidate	Party	Votes	Result
*Leuenberger	SP-PS	211	Re-elected
*Couchepin	FDP-PRD	178	Re-elected
<b>Blocher</b>	<b>SVP-UDC</b>	<b>121</b>	<b>Elected</b>
<b>*Metzler</b>	<b>CVP-PCD</b>	<b>116</b>	<b>Unseated</b>
*Deiss	CVP-PCD	138	Re-elected
*Metzler	CVP-PCD	96	Defeated
*Schmid	SVP-UDC	167	Re-elected
*Calmy-Rey	SP-PS	206	Re-elected
Merz	FDP-PRD	127	Elected
Beerli	FDP-PRD	96	Defeated

\*denotes incumbent

In March 1999, the experts reported back to the European Parliament with damning allegations about mismanagement in the Commission. They claimed that within the Commission, it was impossible to find anybody who had 'even the slightest sense of responsibility'. However, the report cleared Marin. A rapid debate occurred inside group meetings at the Parliament, such that when Pauline Green announced that the Socialists would vote in favour of censure and Cresson refused to resign as an

individual, Santer presented the resignation of the Commission as a whole.<sup>56</sup> The appointment of the Committee of Experts was a consensual outcome designed to avoid conflict between the parties and between the institutions. When consensus broke down between the parties and institutions, it was less severe than in any national parliament, including that of hyper-consensual Switzerland. The costs of consensus breakdown in 1999 were immediate, as revealed by the Socialists losing control of a process that they had initiated. While the Socialists targeted Santer in 1994 and 1999, the EPP aimed its fire on Cresson and Marin.

#### **6.1.4. After Santer: The Appointment of the Commission of Romano Prodi, 1999**

At the end of March 1999 the heads of government met for the already scheduled Council in Berlin and rapidly agreed to nominate Romano Prodi as President-designate of the Commission. The choice of Prodi was convenient since his government in Italy had fallen in November 1998 and his successor was anxious to dispense with him from the Italian political scene. In ideological terms he was a good, median choice, since he had been a Christian Democrat throughout his professional life. With the split and demise of the Italian Christian Democrats in 1994, he had chosen its left-wing branch in preference to the right-wing branch that allied with Forza Italia. From 1996, as a Christian Democrat, he had led a centre-left government dominated by the Democrats of the Left, a member party of the PES.

In May 1999, at its final sitting before the elections, Parliament held a vote of approval on the nomination of Prodi, in accordance with Rule 32. This was the only time that the outgoing Parliament could exercise its powers of appointment for the

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<sup>56</sup> Jacques Santer, Verbatim Report of Proceedings, *Official Journal of the European Communities*, 22 March 1999.



Commission President that had been granted by Amsterdam. The vote was preceded by a debate in which Prodi and Gunther Verheugen, the German Europe Minister acting for the Council, made introductory statements. Although some MEPs accused Prodi of lacking commitment to social policy, he made greater reference to social issues, labour mobility, and defending pensions and social insurance than did Santer in 1994.

Both Green and Martens offered full support from their groups and emphasised the need to appoint Commissioners with substantial technical and political skills. The Liberal Group was one of Prodi's strongest supporters. Cox referred to the new power acquired by Prodi under Amsterdam that allowed him to share the appointment powers over the Commission with the Council and allowed discretion about which portfolios were allocated. Cox urged Prodi to show that he was his 'own man' by refusing to accept a candidate Commissioner that was rejected by the Parliament. This was consistent with the preference of Parliament for a consensual 'strong' President of the Commission, who will be more accountable to Parliament, whose legitimisation he requires against the Council.

The Radical Left Group expressed concern at the emphasis on competitiveness and labour flexibility, leading to the weakening of social and economic cohesion. Magda Aelvoet of the Greens emphasised a model where, 'not everything is governed by the logic of the market'. She also argued for broader consensus to include the appointment of a Green Commissioner and that diversity would not be served in the German case by allowing for one Commissioner to be appointed each from the main parties of government and opposition. Cristiana Muscardini of National Alliance was supportive of the Prodi nomination, in line with her party's search for respectability and decision by their domestic allies in Forza Italia to support Prodi at the

Commission. The position of Muscardini demonstrated the convergence of the national and transnational interests of political parties contributing to the greatest possible consensus for appointing Prodi.

Prodi was then subject to criticism from PES members whose party leaders had nominated him, on the grounds of being insufficiently committed to a social Europe.

Olivier Duahmel of the French Socialists complained:

‘Your speech this morning on full economic liberalisation offends us as Socialists. But we realise that it stems from your need for consensus and that that is the situation we are in. We will therefore vote in favour of your appointment.’<sup>57</sup>

**Table 6.6: Vote on the nomination of Romano Prodi as President of the Commission, 4 May 1999**

	EUL	Greens	PES	ERA	ELDR	EPP	UPE	IEN	NA	TOTAL
Yes	3	10	155	8	36	156	20	0	4	392
No	17	6	19	2	2	0	3	11	12	72
Abstain	8	7	10	4	2	8	2	0	0	41
Absent	6	4	30	7	2	37	9	4	22	121
Total	34	27	214	21	42	201	34	15	38	626

Prodi concluded the debate by arguing that the market and social policy should not be in contradiction to each other, for if they were it would lead to the ruin of both. Prodi was successful in gaining an indicative vote of approval by a large majority from the same left-wing Parliament that had seen to Santer’s downfall a few months earlier, having so narrowly appointed him in 1994 (Table 6.6). Consensus was being quickly reconsolidated.

<sup>57</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 May 1999.

The vote to approve Prodi was one in which the main political groups chose not to compete. Among the PES members who voted 'No' or abstained were 13 of the 60 British Labour MEPs and six French Socialists. The British Conservatives were divided between voting 'Yes' and abstaining, accounting for all eight of the EPP members who abstained. The Greens were the only group to be significantly divided. The German, Dutch and Finnish Greens voted 'Yes', the Irish, Italian and Swedish Greens voted 'No', while the Austrian, Belgian, and some of the German Greens abstained. The German and Finnish Greens were in governments that had approved Prodi, which would explain their positive vote.

Once the new Parliament had convened and Prodi was able to assemble a team, two further debates were held in July and then September 1999, before the new Commission was approved in September. The balance in the Parliament had changed, with all groups, particularly the EPP, gaining at the expense of the Socialists. The Liberals were in a more pivotal position, allowing them to form an alliance with the EPP for gaining key positions in the new Parliament (see chapter 4). In view of its victory in the European elections, one of the first criticisms made by the EPP group was that the centre-right was under-represented in the new Commission compared to the PES.

In his opening statement to the new Parliament on the 21 July 1999, Prodi challenged the members with the criticisms that he anticipated would be made of his Commission. Despite the lack of a Christian Democrat Commissioner from Germany, Prodi insisted in advance that the Commission was 'characterised by the right balance between the political complexity of national governments and the European

Parliament'.<sup>58</sup> The Parliament always defended the political and institutional independence of the Commission as an integral part of the Community method, so it could not now insist that the partisan make-up of the new administration should reflect that of Parliament.

The response of the new leader of the EPP Group, Hans-Gert Pöttering, a German Christian Democrat, was therefore predictable on the question of political balance:

'Mr President, you said again just now that the Commission is balanced. I don't know which criteria you would cite in support of its being balanced, but I want to make it crystal clear to you that we, the Group of the European People's Party and European Democrats do not consider this Commission to be politically balanced.'

The victorious EPP, under the leadership of the CDU-CSU now in opposition at home and without a Commissioner, had adopted a more hostile attitude to the new Commission and in its relationship with the Socialist Group than had been the case under Martens. Pöttering attacked Prodi for not fulfilling his new powers under Amsterdam as President-designate in standing up to the appointments that member state governments wished to make.<sup>59</sup>

A German Green had been appointed as one of the new Commissioners. This reflected the position of the Greens as the coalition partner of the Social Democrats in Berlin, as well as their increased representation in the Parliament, extending European consensus to the Greens. The result was that no Commissioner coming from Germany's opposition was appointed. This was a key issue over which the EPP Group decided to compete in the hearings and votes that followed on the new Commission. It contrasted significantly with the same group's positive appraisal of Prodi before the

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<sup>58</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 21 July 1999.

<sup>59</sup> Hans-Gert Pöttering MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 21 July 1999.

European elections. Gunilla Carlsson, a Swedish Moderate member of the EPP Group, added to the German complaints about lack of political balance in the Commission. She complained that since all three Nordic Commissioners were Social Democrats, this was clearly unfair. Pöttering also asked a question that would be repeated by other members, concerning whether Prodi would be prepared to force a Commissioner to resign and whether he would request the withdrawal of any candidate Commissioner rejected following a hearing by the relevant parliamentary committee during that summer.

Enrique Baron Crespo, leader of the Socialist Group, and Cox of the Liberal Group both expressed satisfaction with the new Commission. While the Liberal Group had decided to ally with the EPP over a range of policy issues and in terms of sharing important positions like the Parliament's Presidency, the Liberals' approach to the Prodi Commission was as positive as that of the Socialists. By this time, the MEPs of the new *Democratici* party in Italy, which Prodi and others founded several months earlier, had taken their seats in the Liberal Group. The address by Paul Lannoye, the Belgian leader of the Green Group was pro-system in tone and favourable to the new Commission. Lannoye called for the Commission to take firm initiatives in the fields of human rights, the conflict in Kosovo, the WTO, and on food safety, issues of concern to the Greens.

The Radical Left Group was inclined to reject the new Commission on account of insufficient commitment to the areas of social policy and the environment. Paulo Portas of the UEN Group, consisting of Eurosceptics as well as pro-integration nationalists like Fianna Fail, blamed Prodi for a lack of consistency and indicated that his group would oppose the new Commission, although Fianna Fail would vote in favour. Gianfranco Fini of National Alliance renewed the supportive stance of his

party to Prodi's leadership of the Commission, despite being opponents in the domestic politics of Italy. Of course Prodi's departure for Brussels deprived the Italian centre-left of one of its few electoral assets over the centre-right:

'I know that we are politically opposed in our own country, but we are nevertheless united in our desire to build a Europe in which the peoples of the old continent are increasingly ready to place their trust.'<sup>60</sup>

Fini also called for more attention to be focused on the rights of workers, rights to health and to healthy food. This approach was consistent with Fini's corporatist concept of the *Social Right* or statist protectionism that is shared with Gaullism.

The new, hard Eurosceptic Group, the EDD, was the approximate heir of the old IEN Group and led by Bonde. Speaking for the EDD, Michael Holmes of the UK Independence Party called for Parliament to have more power and full control over the Commission. Until such time his group would oppose the Commission. It is notable how quickly the UK Independence Party, implacably committed to abolishing the EU in its domestic discourse had adapted to a more consensual and constructive approach in the Parliament.

Closing the debate in July, Prodi repeated his belief that the new Commission was balanced, to the dissatisfaction of the EPP Group. In reply to earlier questioning, he undertook that the new members of the Commission, 'are ready to face their responsibilities, individually and collectively', and revealed that he had extracted a promise from each member to resign if any 'event or hidden fact'<sup>61</sup> required it. Referring to the concerns of the Greens, the Radical Left Group, and National Alliance, he undertook that issues of trade and health rights would be fundamental for

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<sup>60</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 21 July 1999.

<sup>61</sup> Roman Prodi, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 September 1999.

the Commission and that they would form part of the confirmation debate in September. Prodi met most of the demands of parliamentarians in order to maximise consensus in the EP for his appointment, although part of this was achieved by adopting a technocratic, non-partisan discourse.

According to Hix (2002: 278), although the governments perceived that there was a zero redistribution of the balance of power by institutionalising the need for parliamentary assent for the appointment of the President of the Commission, Parliament was able to extend the process that it had conducted in 1994 for the appointment of Santer. In 1999, Prodi was compelled at the behest of the EPP Group to undertake to dismiss individual Commissioners no longer enjoying the confidence of the Parliament. The Treaty of Amsterdam had not foreseen this.

Pre-empting the criticisms that would be made, in his opening address to Parliament of September 1999, Prodi placed particular emphasis on social and environmental policy:

‘But Europe is not about institutions: it is about people. Prosperity in Europe depends on European people having jobs, and we need to get Europe back to work. Jobs depend on a healthy economy, so the third key challenge facing us is how to achieve environmentally and economically sustainable growth that creates new jobs.’<sup>62</sup>

Pöttering celebrated the success of his Group in extracting commitments from an incoming Commission anxious for a large majority in the Parliament, although these were consensual demands supported by Pauline Green in the previous Parliament:

‘Firstly, the timetable of the Parliament and of its Committees and, therefore, the presence of the Commission in the Parliament, are to take precedence over all other obligations of the European Commission. Secondly, requests by Parliament to the Commission to set out legislative proposals are to be complied with as far as possible. Thirdly, a vote of no confidence against a Member of

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<sup>62</sup> Romano Prodi, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 September 1999.

the Commission is to be reason enough for the President of the Commission to seriously consider dismissing him. Fourthly, constructive dialogue and regular consultation are to take place with the European Parliament about reform of the Commission. Fifthly, Parliament and the Commission are to support comprehensive institutional reform in anticipation of the Intergovernmental Conference.’<sup>63</sup>

However, as a German Christian Democrat, Pöttering repeated his criticism about the new Commission’s political composition, something to which other members of his Group would refer. The hearings of candidate Commissioners in committee had identified Philippe Busquin, a Belgian Socialist, as a weak candidate that the EPP could focus on for purposes of group competition. Competition occurred between the EPP and Socialists on individual nominations to the Commission, often influenced by the national opposition situations of EPP parties. This limited competition occurred within the EP’s embedded mechanisms for consensus that reduce it to a level that is negligible by comparison with national parliaments, including that of Switzerland, as mentioned above.

Baron Crespo’s opening remarks focused on Ana Palacio, the EPP candidate for Commission Vice-Presidency and outgoing Minister of Agriculture in Spain. In that position, she had felt pressure to take political responsibility for CAP funding scandal concerning the flax industry in Spain. The Green Group was also dissatisfied with Palacio due to ‘her lack of understanding of the democratic role of the Parliament’. The Greens repeated their concerns about genetic modification and relations with the WTO. The Socialists and Greens also felt the need to follow the EPP and demand the resignation of any Commissioner who lost the confidence of Parliament. The views of the Liberal Group were again positive. The EUL Group was positive about the new attitude and sense of responsibility of the Commission, while criticising its ‘neo-liberal’ policies and lack of commitment to developing countries. Some of the Radical

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<sup>63</sup> Hans-Gert Pöttering MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 September 1999.



Left members were angered more by the internal procedures of parliamentary committees that meant that all questions to candidate Commissioners were decided in advance, so that no proper assessment could be given. Fausto Bertinotti explained that the EUL Group's negative view arose not from doubting the integrity or competence of the new Commissioners, but from a 'political assessment of their programmes'.<sup>64</sup> Even the opposition of the Communist and ex-Communist Left was moderate compared to what may be expected in national politics. Speaking for National Alliance, which by September had joined the UEN Group, Cristiana Muscardini delivered a positive assessment but could have been mistaken for a member of the Greens or EUL Group, albeit with a *euronationalist* tinge:

'Trade talks will soon begin within the framework of the Millennium Round, and we ask the Commission to take a firm and determined stance so that within the World Trade Organisation, it can defend the supreme importance of social rights, safeguard the environment and protect the European agricultural model and the consumer with regard to world trade. It must also find the courage to propose again a triangular nature for aid for developing countries.'<sup>65</sup>

Besides the case of Philippe Busquin, right-wing members of the EPP, UEN, and EDD groups criticised the presence of four incumbent members of the Santer Commission in the new team. A German Christian Democrat, Hartmut Nassauer, explained that he was positive about the appointment of Prodi as President, but unsure about the Commission as a whole. His view of Chris Patten and Antonio Vitorino was very high, even though Vitorino was a Socialist. His doubts stemmed from Busquin and the overrepresentation of Socialists in the new team. This typified the mixed assessment made by many MEPs from the centre-right.

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<sup>64</sup> Fausto Bertinotti MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 September 1999.

<sup>65</sup> Cristiana Muscardini MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 September 1999.

The British Conservatives, however, did not subscribe to the consensus on Prodi, choosing to locate themselves as marginal outliers along with the hard Eurosceptics for reasons of domestic political competition. Edward McMillan-Scott explained his delegation's total opposition to the incoming Commission, although they had voted 'Yes' or abstained in the approval vote for Prodi in May. For the Conservatives, the key issue was the return of four members of the Santer Commission, including Neil Kinnock, members of an administration that should be held collectively responsible. McMillan-Scott called for the Parliament to be given the power to dismiss individual Commissioners for negligent administration or fraud and complained that, 'by failing to allow votes on individual Commissioners, MEPs have been denied an important democratic right'. Conservative leaders in government had of course never approved of expanding the Parliament's powers and would certainly have opposed what McMillan-Scott had urged in his speech. From the rest of the EPP Group, the Conservatives were joined in voting against the new Commission by only a handful of members from the Flemish and Bavarian Social Christian parties. However, they differed from the Conservatives in voting against or abstaining on the appointment of the Commission, while voting in favour of Prodi as Commission President. Marianne Thyssen, a Flemish Social Christian, was particularly enraged about the appointment of the *Wallon* Busquin by the Belgian government, of which her party was no longer part, due to his alleged corruption and inability to speak Flemish, although she supported the rest of the Commission.<sup>66</sup>

Approval of the new Commission was urged by a series of EPP, Socialist, Liberal, and Green national delegation leaders, speaking in all but name for their governments and domestic party leaders. Speakers from the Radical Left, UEN, and EDD Groups

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<sup>66</sup> Marianne Thyssen MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 4 September 1999.

were much less supportive, citing predictable reasons from neglect of social policy, environmental issues, sovereignty, and national identity.

One of the few critics of the new Commission from the PES Group, speaking independently from her national delegation, was Dagmar Roth-Behrendt, a German Social Democrat and PES Group Co-ordinator on the Environment Committee. While Bavarian Social Christians were inclined to vote in favour of Prodi but against his Commission, Roth-Behrendt and some of the Greens inclined to do the opposite:

‘In your speech today, you did not say a word, not a single word, about environmental policy. You mentioned sustainable development once. This is a compulsory exercise, which everyone engages in. You did not say a word, not a single word, about consumer protection and safe food. And that is after BSE and dioxin! You used the word ‘health’ in connection with the economy and sport. You betray your ignorance here, Mr Prodi, not that of your Commission, merely your own.

‘You say you have learned lessons. So what lessons have you learned, Mr Prodi, other than that enterprise is important? You have shown in the past that you do not seriously mean what you say, and so you no longer say anything at all. I am telling you quite clearly, Mr Prodi, you have not passed the examination as far as I am concerned. So far, you have clearly failed it. So if I vote ‘Yes’ tomorrow, it is because of your esteemed colleagues, Mr Prodi, and not because of you. If, when voting, I were able to differentiate between yourself and your colleagues, you would get a clear “No” and all the others a clear “Yes”. In football, a good team with a bad coach would never reach the top of the league. I only hope that the future Commission will overturn this rule.’<sup>67</sup>

Iñigo Méndez de Vigo, a Spanish member of the EPP Group and, actually one of the key supporters of the new Commission, made a critical assessment of Prodi’s performance, comparable to that of Roth-Behrendt. Referring to Prodi’s introductory speech as being void of political objectives and ‘downright boring’, he continued, ‘what was it that you said today: “the Commission and Parliament will co-operate”? No, we already take co-operation for granted, it is in the tradition of the Community.’ The contributions of Roth-Behrendt and Méndez de Vigo illustrate that a lack of satisfaction with the abilities of Prodi, a technocrat and compromise candidate selected by the governments, was beginning to surface. This reveals the drawbacks of

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<sup>67</sup> Dagmar Roth-Behrendt MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 14 September 1999.

an overwhelming consensus that settles on depoliticised and technocratic solutions and personalities.

Beyond the disputes and competition between the main groups over the abilities of individual Commission candidates, a British Labour member, Richard Corbett made a statement to the effect that institutionally Parliament could be proud of the scrutiny it had succeeded in exercising over the candidate Commissioners and the commitments that it had extracted:

Mr President, with these hearings we have just carried out an exercise in scrutiny and transparency the like of which exists in none of our Member States. Imagine if each of our national governments had to go through a procedure whereby they had to fill in fifty pages of answers to a questionnaire and were subject to three hours of grilling and questioning in public before the national parliaments took a vote of confidence allowing them to take office. We have achieved something that we can be proud of.<sup>68</sup>

Extensive scrutiny, including the quizzing of nominee Commissioners in committee, maximises consensus if the differing ideological tendencies in Parliament feel they have had the opportunity to investigate the nominees, challenging certain individuals about their technical competence. Such broad consensus depends however precisely on approving technically competent individuals, while putting political preferences to one side.

In his closing speech, Prodi addressed most of the issues raised by MEPs, refuting firstly the claims by Méndez de Vigo about lacking inspiration. He undertook to develop strong policies to combat fraud, and guarantee food safety and equality between men and women. He also promised to reshuffle portfolios between Commissioners and to take action against Commissioners in the case of a loss of confidence by the Parliament, although once again, Prodi and the EP agreed to

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<sup>68</sup> Richard Corbett MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 14 September 1999.

depoliticise such a process, by focusing on lack of competence or probity rather than political disagreement on policy choices. Consensus was again secured by disguising losers. Reshuffling or dismissing Commissioners was the most significant undertaking he took, as alluded to by both Pöttering and Corbett in terms of the *de jure* and *de facto* institutional powers that Parliament was gaining over the Commission:

‘As regards Parliament’s loss of trust, I should like to remind you that each Commissioner has undertaken to resign if I ask him or her to. A vote of no confidence against an individual Commissioner by the European Parliament would obviously for me be a reason for the most lengthy, serious and thorough consideration. When I say ‘reason for the most serious and thorough consideration’ what I mean exactly is that I can undoubtedly not take lightly the wishes expressed by the European Parliament. However, **I am well aware that politics and political dispute can also have unforeseen results** and we must therefore consider the subject in depth and, above all, reflect on the fact that the Treaties do not provide for the possibility of individual sanctions. **It must therefore be a non-political move**, it must be dictated by the relevant authority, not by a legal provision which at present does not exist.’<sup>69</sup> [Emphasis of the author.]

The Greens, divided on approving the Commission, called for a more radical Commission to defend quality of life. The UEN group was divided between the government party, Fianna Fail, and potential government party, National Alliance, in voting ‘Yes’, with the more Eurosceptic half of the group voting against. Members from a variety of groups inclined to vote against the Commission took the opportunity to state support for individual candidates of which they approved.

Although Prodi had been approved as Commission President in May, the same vote had to be repeated by the new Parliament twice, for both the remaining months of the term of the Santer Commission (until January 2000) and then for the next five years. Two confirmation votes were held for the appointment of the entire Commission as well. Table 6.7 shows the results of the final vote. This did not differ significantly from the other three votes. A handful of German and Belgian EPP members voted for Prodi as President but voted against the Commission as a whole or abstained, for the

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<sup>69</sup> Romano Prodi, Verbatim Reports of Proceedings of the European Parliament, *Official Journal of the European Communities*, 14 September 1999.

reasons mentioned above: domestic opposition; a lack of EPP Commissioners; but agreeing with the appointment of the consensual Prodi as President. Similarly, a handful of Greens and Socialists, like Roth-Behrendt, chose to vote in the opposite direction, dissatisfied with Prodi, but happy with other members of the Commission. Furthermore, there were a few MEPs who voted in favour of appointing the Commission only until January 2000 for a trial period, before repeating the entire process of confirmation hearings for the next five years. They voted against appointing the Commission until 2005.

**Table 6.7: Vote of approval of the Prodi Commission until 2005, 15 September 1999**

	EUL	PES	Greens	ELDR	EPP	EDD	UEN	NA	Total
Yes	0	171	21	48	158	0	14	1	413
No	28	1	15	1	52	15	13	17	142
Abstention	9	3	10	0	12	0	2	0	36
Absent	5	5	2	1	11	1	1	9	35
Total	42	180	48	50	233	16	30	27	626

The array of party groups and national delegations, which voted for or against approval of the Prodi Commission in September 1999, differed from that which had supported Fontaine in July. The Socialist and Liberal Groups voted almost *en bloc* to approve the Commission in office until 2005. The non-attached, EDD and Radical Left groups voted against or abstained. The EPP, Green and UEN groups were divided.

Based on the approval vote for Jacques Santer in 1994, Hix and Lord (1996: 72) established a model for assessing which groups and national delegations would be expected to approve a new Commission, which itself indicates significant dependence

on the Council and therefore national party leaderships. According to this model, the following MEPs would be expected to vote in favour of the new Commission:

- those coming from parties of government, whose leaders would have already accepted Commission nominees on the Council;
- opposition MEPs from the country of the nominated President, on account of national preference;
- opposition MEPs in transnational groups, which had endorsed the nominee Commission.

Despite reservations, the EPP Group voted by 75 percent to approve the new Commission.<sup>70</sup> The situation differed from the approval vote of the Santer Commission in that all three of the major groups supported Prodi and the votes for Prodi and his entire team took place on the same day. The EPP member parties to withhold their consent were the British Conservatives and Bavarian and Flemish Social Christians. Government parties to withhold approval included the French and Italian Communists and most of the French and Belgian Greens. In 1994, Hix and Lord found that 91.7 percent of MEPs voted according to the expectations of their model. Applying this model to 1999, the figure was 82.7 percent. This indicates a degree of competition, or rather some lack of cohesion, often connected to EPP member parties being in opposition within their domestic political systems, but on balance there is overwhelming consensus.

The vote to approve the Prodi Commission demonstrates the increased fluidity of group behaviour, with respect to five years before. The reason for parties of government like the French Communists to vote against the new Commission may be disapproval of its policies and sufficient autonomy either for the MEPs with regard to their national party, or their party with regard to their domestic coalition partners.

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<sup>70</sup> EPP press release, Strasbourg, 14 September 1999.

Parties of opposition, like most of the EPP voting in favour, as well as the Dutch and Austrian Greens, must have agreed with the policies of the new Commission or at least have had nothing to gain from opposing it.

On the same day Parliament passed a resolution on its expectations of the Prodi Commission. This demanded that named Commissioners would be required to attend the plenary or specific committees of Parliament whenever requested, that prompt replies would be required to any proposal by Parliament for tabling legislation, and that any Commissioner should resign if requested to do so by Parliament.<sup>71</sup> By internal consensus, the EP was trying to re-establish itself as a policy proposer, but exercising only technocratic accountability over the Commission.

## **6.2. The other Supranational Institutions**

This section looks at the Parliament's powers of appointment with regard to other institutions, for which competition has been even less intense. Parliament exercises exclusive power of election for the EU Ombudsman, and is merely consulted with regard to the Court of Auditors and Central Bank. Parliament has nevertheless attempted to extract concessions from appointees in terms of accountability, in order to extend its powers, while in most cases approving appointments by overwhelming consensus. These appointments are by nature more technocratic and less partisan than those to the Commission, a fact that has assisted Parliament in reaching near unanimous consensus.

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<sup>71</sup> *Official Journal of the European Communities*, Texts Adopted by the European Parliament, 15 September 1999: B5-0065, 0066, 0068, 0075/1999.



### 6.2.1. The Ombudsman of the European Union

The office of the Ombudsman of the European Union was created under the Maastricht Treaty, in expectation of the enlargement to Finland, Sweden, and Norway, states in which the Ombudsman is an important institution. In the EU context, the Ombudsman has full powers of investigation into allegations of bad administration by EU institutions that are brought by ordinary citizens. He also compiles an annual report presented to Parliament, and works closely with both the Parliament's Petitions Committee and the Court of Auditors. The Ombudsman is elected by the Parliament for a term of five years, following interviews and a report by the Petitions Committee. The first time that this occurred was in July 1995, following the enlargement to Austria, Finland, and Sweden. The former Ombudsman of Finland, Jacob Söderman, was elected in both 1995 and 1999. Although he is a former politician and a member of the Finnish Social Democratic Party, the main political groups of Parliament did not prioritise competition for his office.

The election is held by secret ballot so it is not possible to identify voters, except to see trends through transfers between the different rounds. In the *left-wing* Parliament of 1995, Siegbert Alber and Simone Veil, both associated with EPP Group fared well, splitting the centre-right vote. However, it was not clear that voting was totally along party lines. Once Veil was eliminated, more of her votes transferred to the Social Democrat Söderman than to fellow EPP member Alber.

**Table 6.8: Votes cast in the election for Ombudsman, July 1995 and October 1999**

<b>Candidate</b>	<b>Group</b>	<b>Party</b>		1st round	2nd round	3rd round
<b>JULY 1995</b>						
Alber	EPP	CDU	183	193	221	
Gil-Robles	EPP	PP	50	-	-	
Newton Dunn	EPP	Cons	withdrew	-	-	
Söderman	PES	SDP	139	195	<b>241</b>	
Vayssade	PES	PS	17	-	-	
Veil	EPP	UDF	113	133	-	
<b>OCTOBER 1999</b>						
Anastassopoulos	EPP	ND	256			
Söderman	PES	SDP	<b>269</b>			

In October 1999, the incumbent Söderman, nominated as the Socialist candidate, was re-elected by a narrow margin of seven votes in a more right-wing Parliament. He defeated the candidate of the EPP, viewed as a ‘weak candidate’ by several EPP members. The Socialist Group did not actively campaign for Söderman, who was supported by many members of the Liberal and Green Groups.<sup>72</sup> Despite the relative strength of the EPP, Söderman was re-elected. With regard to the Liberals, this election was not covered by the constitutive agreement with the EPP (Chapter 4). This case is an example of alliance fluidity, showing that the Socialists were not in any sense excluded from influence, and that structured links between the EPP and Liberals went no further than their constitutive agreement concerning the Parliament’s Presidency and leadership positions within parliamentary committees. Although Parliament elects the Ombudsman without reference to any other institution, the groups choose not to compete for an office in which consensus-maximising technical expertise counts for more than partisan competition.

<sup>72</sup> Interviews, official of the PES Group, Eurig Wyn MEP and Andrew Duff MEP, Brussels, 7-8 March 2000.

### 6.2.2. The Court of Auditors

The Luxembourg Treaty of 1975, which also granted budgetary powers to the then European Assembly, established the Court of Auditors. It has the power to investigate the public spending and accounts of the Commission and other institutions, although its oversight with regard to spending of the Council on foreign and security policy is more limited. The Council appoints its members and, since the Treaty of Nice came into force, by qualified majority vote, but in practice each government nominates one member. Parliament is *consulted* on the appointments, but can be ignored. The Court works closely with Parliament's Budgetary Control Committee, which proposes the annual discharge for the Union's accounts on receiving a full Audit from the Court. It is this committee, which also holds hearings on nominees to the Court.

In 1989, Parliament rejected the Greek and French nominees to the Court. The French government nominated a different candidate, but the Greeks refused to withdraw theirs. This set a precedent, leading the Council to ignore Parliament's rejection of two further candidates in 1993. As Westlake (1998: 432) writes:

'The lesson the Parliament drew from this was simple: the moral authority conferred on the Parliament by direct election was a necessary but insufficient condition for the full exercise of its consultative powers. In particular, the attitude of the Council might have been very different if Parliament's reservations had attracted media interest.'

Another factor was certainly the low political salience of appointments to the Court. As the sections on the Commission and the Central Bank show, institutional evolution of the Parliament and growth in the political salience of appointments and media coverage have since transformed the power of consultation into *de facto* veto power.

In February 1995, following the hearings on the appointment of Auditors from Austria, Finland, and Sweden, Dietmut Theato, Chair of the Budgetary Control Committee reported back to Parliament. The report was favourable, the only criticism being made in connection to the absence of any women among the fifteen Auditors.<sup>73</sup> Whatever one's opinion of the question of women's representation, this threat was successful since a woman was appointed for the first time later that year, following a further threat made during a hearing for appointing a replacement Auditor in June of 1995. In her report back to the plenary in December 1995 on the appointment of seven new Auditors, Theato expressed satisfaction with the audit process and the presence of one female Auditor. John Tomlinson, a British Labour MEP, also expressed the hope that the personal staff of the new Auditors would contribute seriously to the audit process rather than assist in the 'political entrenchment of [the Auditors] as individuals'. He continued, 'that particularly applies to those Members of the Court who are politicians who have suddenly discovered that there is an auditor inside them trying to get out'.<sup>74</sup> Even Hervé Fabre-Aubresby of the IEN Group and Eric Schreiner of the Austrian Freedom Party expressed a favourable view on the appointments, content that accounts specialists, rather than politicians, were being appointed on the most part.

The next round of appointments occurred after the election of the 1999 Parliament, with no difference in style compared to previously. In December 1999, the plenary debated eight appointments or re-appointments to the Court. Again there was a call for more women to be appointed and for proper auditors rather than politicians to be selected.

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<sup>73</sup> Dietmut Theato MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 16 February 1995.

<sup>74</sup> John Tomlinson MEP, Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 12 December 1995.

In October 2001, nine Auditors were replaced, appointed, or re-appointed and voted through without debate. There was some dissatisfaction about the selection of the new Auditor from Sweden, Lars Tobisson, who was a politician with no accounting experience. Since 1995, every nominee for whom a vote was held (this did not occur in 1999) was elected by an enormous margin, except Tobisson in 2001, opposed by 126 MEPs.

**Table 6.9: Votes of approval for members of the Court of Auditors<sup>75</sup>**

Candidate	State	Yes	No	Abs	Vote	Term expiry	Resigns
Weber	A	92	4	2	17/02/95	20/12/95	
		371	13	15	14/12/95	20/12/01	
		461	32	35	23/10/01	20/12/07	
Salmi	FIN	93	1	2	17/02/95	09/02/00	
					16/12/99	09/02/06	
Karlsson	S	95	6	0	17/02/95	09/02/00	
					16/12/99	09/02/06	20/12/01
Mohr	DK	335	11	11	15/06/95	09/02/00	
					16/12/99	09/02/06	20/12/01
Friedmann	D	371	25	13	14/12/95	20/12/01	
Bernicot	F	360	14	19	14/12/95	20/12/01	
		446	35	32	23/10/01	20/12/07	
Wiggins	GB	357	22	23	14/12/95	20/12/01	
Nikolaou	EL	384	16	19	14/12/95	20/12/01	
Colling	L	355	26	20	14/12/95	20/12/01	
		459	35	35	23/10/01	20/12/07	
Engwirda	NL	364	24	24	14/12/95	20/12/01	
		465	31	34	23/10/01	20/12/07	
Caldeira	P				16/12/99	09/02/06	
Clemente	I				16/12/99	09/02/06	
Fabra Valles	E				16/12/99	09/02/06	
Geoghan-Quinn	IRL				16/12/99	09/02/06	
Reynders	B				16/12/99	09/02/06	
Levysohn	DK	461	29	38	23/10/01	09/02/06	
Tobisson	S	364	126	34	23/10/01	09/02/06	
von Wedel	D	461	34	31	23/10/01	20/12/07	
Bostock	GB	453	25	36	23/10/01	20/12/07	
Sarnas	EL	458	35	36	23/10/01	20/12/07	

<sup>75</sup> Electronic votes were not taken on 16 December 1999.

David Bostock, the British Auditor appointed at the end of 2001, had followed a career in the UK Treasury and the UK Representation to the EU, before heading the EU Secretariat in the Cabinet Office. While the Court is a destination for political appointments in some countries, it is more technical in others. Some members are trained Auditors, others like Bostock are civil servants, without an auditing past. Although nominated by Tony Blair to the post, he did not regard himself as a party political appointment and, as a career civil servant, could just as well have been appointed by a Conservative government.<sup>76</sup>

During his hearing at the Budgetary Control Committee, Bostock was asked a variety of questions that demonstrated a consistent desire by the Parliament for the Court to be institutionally independent from both Council and Commission, yet simultaneously accountable to Parliament. These included:

- how he could guarantee his independence, since he had always worked for the British government;
- his experience of auditing expenditure;
- his opinion on Structural Funds;
- his views on the relationship between Parliament and the Court, and whether the work programme should be decided in abstract or in detail in co-operation with the Parliament.

Of Parliament's various powers of appointment, those to the Court of Auditors are the least salient politically. They are not an area in which the political groups choose to compete in any sense, with even Far Right and Eurosceptic members approving appointments. What is clear, however, is that the process of hearings has been used since the election of the 1994 Parliament to secure the appointment of well-qualified auditors to a Court that is institutionally independent. The technocratic and non-

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<sup>76</sup> Interview, London, October 2001.

political nature of the appointments allows for Parliament to achieve maximum consensus, even in a case of relative contestation as in 2001. The under-representation of women is something that governments addressed at the insistence of parliamentarians.

### **6.2.3. The European Central Bank**

The transformation of the European Monetary Institute into the Central Bank (ECB) in 1998 marked the final stage before the entry into force of the euro in January 1999. The ECB controls euro interest rates and money supply. Its board is composed of the ex-officio Governors of the twelve Central Banks of the euro states, plus six executive members, including the President and Vice-President of the Bank. These are nominated unanimously, although since Nice by qualified majority, by the Council or *Euro12* – the Finance Ministers of the twelve participating states – subject to consultation of Parliament. The term of office is eight years, although for the first round of appointments, terms varied from between four to eight years, so that subsequent appointments would be made at different times.

Westlake (1998: 432) argues that Parliament has successfully used its weak powers of consultation to create a politically accountable Central Bank, comparable to the appointment process for the Commission. The salience of appointments to the ECB is much higher than the election of the Ombudsman or appointment of Auditors. Parliament's Economic and Monetary Affairs Committee had already set a precedent for ECB confirmation hearings by examining the candidature of Alexandre Lamfalussy, the previous President of the Monetary Institute, in 1993. In May of 1998 Tony Blair and Gordon Brown chaired a special Council in Brussels under the British

presidency to select the executive members of the Bank and decide which member states would participate in monetary union. Within Parliament, officials were temporarily drafted to the Economic and Monetary Affairs Committee, the political groups published research on the candidates and confirmation hearings were set for later in May. Both the Bank and parliamentary committee were aware that too much independence for the ECB would raise problems of legitimacy with the public and so the committee was advised to insist on technical accountability from the Bank for the sake of balance (Lord 2003: 254). Parliament was concerned that the candidates should fulfil all the requirements on quality (Westlake 1998: 435). Westlake believes that Bank and Parliament had a mutual interest in making a success of their relationship. If the Bank is accountable to Parliament then it does not have to be accountable to national parliaments. This gives more power to the EP, which bestows legitimacy on the Bank. Although formally limited to consultation, this link gives substantial *de facto* power to Parliament. Wim Duisenberg, President of the Bank, announced that he would withdraw his candidature if he did not have the support of the Parliament; in just the same way as Santer was compelled to do in July 1994. An official remarked to Westlake (1998: 444), ‘once again Parliament has manipulated a scenario to gain powers not explicitly accorded to it by the Treaties’. This view of Parliament being able to take advantage of situations to maximise its *de facto* powers beyond its *de jure* powers is very similar to the views of Hix (2002). The Bank’s need for a political platform that the EP provides as a genuine transnational body is also emphasised by Lord (1999: 15):

‘[the ECB] has been quick to understand the political opportunity offered by the ECB’s need for a political platform. A final point is that the ECB will systematically under perform unless it targets economic conditions in the Euro Zone as a whole, rather than those in particular member states. This underlines the advantage of accountability to the Parliament, since it is a body organised for the expression of transnational party preferences, rather than national perspectives.’



Lord (2003: 255) repeats these points and adds that while national parliaments would be likely to challenge the monetary policy of the Bank that was out of step with the economic cycle of their member states, the EP's committee will accept that the ECB acts in the general interest of the euro zone.

The Brussels Council of May 1998 was a political embarrassment to the governments who effectively rowed in public over appointments to the Bank, causing substantial anger to the Parliament. Jacques Chirac and Lionel Jospin were insistent that the President of the Bank of France, Jean-Claude Trichet, should head the ECB. The other governments had settled on Wim Duisenberg, who was President of the Monetary Institute. The compromise reached was that Duisenberg would be appointed, but would *voluntarily* agree to retire in favour of Trichet after four years. In the meantime, another Frenchman, Christian Noyer, was appointed as Bank Vice-President for four years. In the end Duisenberg remained in office for over five years. This compromise was the subject of scathing criticism in Parliament.

The Recommendation drafted by Christa Randzio-Plath on behalf of the parliamentary committee affirmed the need for the Bank to have political independence, and noted the 'unsatisfactory' nature of a nomination procedure dependent on unanimity in Council. It criticised Council for considering the candidates on the basis of nationality rather than qualifications for the job and protested at Parliament not being formally informed that Duisenberg's successor would be a 'Frenchman'. Randzio-Plath was pleased to note that Duisenberg had

committed himself to appear before the Committee four times per year rather than just for the annual report.<sup>77</sup>

Parliament's debate on the confirmation of the executive members of the Bank revealed that the main groups were overwhelmingly in favour, although critical of the procedures used. Randzio-Plath praised the personal integrity and technical competence of all the candidates. The presence of one woman among them, formerly President of the Finnish Central Bank, was excellent.

The Socialist Group had entered a reservation about one of the candidates, Eugenio Domingo Salans. Although technically competent, Domingo Salans had been an economics advisor to José Maria Aznar, with no central banking experience. The EPP, ELDR, ERA, and UPE Groups all entered favourable verdicts, despite criticism of the Council's lack of consensus. For Friedrich Wolf of the Greens, the candidates were insufficiently committed to transparency and concerned only for the financial markets. Speaking for the Radical Left Group, Gisèle Moreau entered a similar verdict.

Johannes Blokland, a Dutch member of the IEN Group, announced approval of all candidates except Noyer and Domingo Salans. Although they are hard Eurosceptics, the IEN had also entered favourable opinions on the appointment of the Auditors.

More specifically, Blokland's antipathy to the Dutch Labour Party of which Duisenberg is a member, did not cloud his favourable view of him as a central banker.<sup>78</sup> The British Conservatives differed slightly from the other delegations in the major groups, by announcing that they would vote against Duisenberg and Noyer, despite their competence. This was in protest at the way they had been nominated.

However, most of the Conservatives would vote in favour of the other four

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<sup>77</sup> Recommendation on the appointment of Dr W.F. Duisenberg as President of the European Central Bank (7993/98 – C4-0260/98) A4-0182/98.

<sup>78</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 13 May 1998.

candidates. Very simply, the Far Right, represented by Jean-Claude Martinez of the French National Front, announced that its members would absent themselves from the hemicycle rather than abstain, because they disagreed with the principle of the ECB.

The appointment of the Executive Members of the ECB was an area where Parliament chose to establish an institutional basis and successfully build on what were negligible powers of appointment. Political competition existed at the level of Parliament as an institution competing against the Council. As suggested by Magnette (2001: 299) with regard to the appointment of the Commission, this type of limited inter-institutional competition is characterised by technocratic rather than partisan considerations. This was reflected by the consensus from the main groups that Duisenberg had been appointed for eight years, whatever the views of the Council, and that he alone should decide if and when to retire before then.

### **6.3. Conclusion**

The cases presented in this chapter in part confirm the hypothesis that the European Parliament does not choose to compete when its assent or opinion are required for the appointment of the European Commission and the members of other institutions. On the question of censuring the Commission in 1999, division resulted in significant costs. This was the one exception that proved the consensual rule.

Internally, Parliament has not divided as a rule on appointments to other institutions. Although some of the anti-system elements on the right and left, who constitute a small minority, will often be opposed, the MEPs none of whose transnational affiliations matched those of a single Commissioner accounted for less than 14 percent of the membership of the Parliament of 1999. Some inter-institutional

competition has occurred, though to a limited degree, on the appointment to the Commission or the European Central Bank's executive board, conditioned by domestic government or opposition differences within EP. However, even the domestic opposition status of particular MEPs within a system of separation of powers has contributed to depoliticising the appointments process. The insistence of the EP on technocratic rather than political criteria for judging the competence of nominees maximises consensus between parties, which might otherwise compete. Where competition has occurred, notably on the proposed censure of Jacques Santer's Commission in 1999, which was an unprecedented use of censure as a substitute for a vote of no confidence, the proposers lost control of the process. This rebounded on members of their own party family, revealing the cost of breaking with consensus. Despite the division, the plurality of the two main groups nevertheless voted the same way on this occasion. Even with the events of early 1999 in mind, the European Parliament is still a highly consensual institution compared to any national system including that of Switzerland.

The maintenance of consensus on institutional appointments is embedded due to the nature of the separation of powers, the need for party families to coalesce in order to access office connected to policy outcomes, and the need to balance multiple crosscutting cleavages in the EU by not excluding significant political tendencies. MEPs from governing parties or who share a party affiliation with nominee Commissioners are hardly in a position to oppose the appointment. Since the system is crosscutting, national opposition parties unrepresented in the Commission and Council may succumb to the discipline of their political group, especially if despite lacking representation in the executive they agree with its programme. As the previous chapters have shown, opposition parties also gain access to positions of

influence within Parliament's internal hierarchies from where they can influence the outcome of legislation at the European level. In order to maximise their legitimacy in a multinational and multiparty system, the Commission and other institutions have sought oversized majorities for their appointment in Parliament. Such majorities necessarily include the support of domestic opposition parties whose representation has risen significantly between the Parliaments of 1994 and 1999 (Tables 2.5 and 2.6 in Chapter 2). In view of this, Parliament has itself downplayed ideological considerations in favour of those concerned with technocratic competence, even when the candidates in question are politicians with controversial political pasts.

While the existing literature of the competitivist school focuses on roll call votes, and to a more limited degree on the attribution of internal office such as committee chairs, the extent of consensus on external appointments is addressed only in this research. Although the work of the competitivist school (Hix, Kreppel, and Noury 2003; Hix, Noury, and Roland 2005; Kreppel 2000) is not incompatible with previous work on the Parliament's powers of appointment (Gabel and Hix 2002; Hix 2002; Hix and Lord 1996; Judge and Earnshaw 2002; Magnette 2001; Westlake 1998), the competitivist school would predict some party based competition in the appointment of other institutions, not least because a *winning* legislative majority would approve only a Commission of a similar ideological composition. Such a Commission would in turn propose legislation acceptable to that parliamentary majority. However, the findings in this and other chapters show that Parliament does not work according to competitive preconceptions, remaining a forum of institutionalised consensus.

## 7. From Turin to Laeken: Constitutional Reform and Consensus in the European Parliament

This chapter tests hypothesis 4 that Parliament promotes a broad internal consensus on constitutional issues, which is in the collective interest of all EP actors so that the powers of the EP can be increased. Thanks to the SEA and Treaties of Maastricht and Amsterdam, the powers of the European Parliament were significantly increased. Meanwhile, the results of the IGC in Nice were widely perceived as a failure in terms of advancing European integration and enhancing the role of Parliament. Although Parliament is *de jure* excluded from the process of Treaty reform, its influence on final results has varied according to the political circumstances of the moment.

The Treaty of Maastricht created the co-decision procedure, under which Parliament was an (almost) equal co-legislator with the Council of Ministers. It also required the incoming European Commission to be put to a vote of approval by Parliament. Amsterdam further advanced the powers of Parliament through a modification of the co-decision procedure. This allowed Parliament to reject legislative texts approved by the Council with greater ease. Amsterdam also transferred further policy areas to co-decision and required the President-designate of the Commission to be approved by Parliament in advance of the rest of the Commission.

While the purpose of the Amsterdam IGC was to address the *leftovers* of Maastricht, the purpose of Nice was to address the Amsterdam *leftovers*. These were areas of contention between governments that were difficult to resolve, such that the results of Nice were uninspiring. For Parliament, there was a modest extension of co-decision and QMV in the Council, although not to the extent that Parliament would have wished. A compromise was reached to *re-weigh* the number of votes available to member states in the Council and cap the membership of the Commission and

Parliament, in the light of Enlargement. As I shall discuss below, this was a compromise that satisfied nobody. One success of the Nice Council was to adopt the Charter of Fundamental Rights, although without incorporating it into the Treaty.

The experience of the Convention, composed of representatives of the European Parliament, national parliaments, national governments, and a European Commissioner that had drafted the Charter came to be viewed after Nice as the appropriate method for preparing future Treaty revisions. It was this method that was then selected by the Council of Laeken in December 2001 as the means for drafting the final Enlargement Treaty to address the Nice *leftovers*.

This chapter assesses how Parliament has succeeded as a constitutional agenda-setter, following the Maastricht Treaty, despite no formal role in the Treaty amendment process. The timescale that it covers finishes with the appointment of the Convention at Laeken in December 2001. Has Parliament been an active protagonist in the constitutional reform process or a mere recipient of its increased powers? Has Parliament used its high levels of internal consensus in order to maximise gain in the constitutional battle? I compare the development of its constitutional policy across the Parliaments elected in 1994 and 1999. In the first section of the chapter, I address issues that have affected Parliament's abilities in this regard, before looking at the role of the Institutional Affairs Committee in the 1994 Parliament, followed by its successor, AFCO since 1999. Three other sections follow. The first looks at the period leading to Amsterdam and the extent to which Parliament can be seen as a *winner* at that stage. The second focuses on the IGC that led to Nice and the Charter of Fundamental Rights. The last section addresses the post-Nice period that led to the appointment of the Convention for the Future of Europe.

### **7.1. The Evolution of Parliament's Constitutional Reform Policies**

Karlheinz Neunreither (2001a) deplores what he views as a growing lack of ambition by Parliament for constitutional reform since the late 1980s, ironically coinciding with the period in which its powers were increased. Following the publication of a Draft Treaty in the Spinelli Report,<sup>79</sup> Parliament never ventured to publish draft constitutions. The constitutional ambitions of Parliament originated with the Furler Report of 1963, calling for full legislative participation, final decision on revenues, the right to vote on the budget and the right to elect the Commission President. Neunreither (2001a: 2) argues that this would not have looked out of place as proposals for the IGC at Nice.

Once the SEA had been adopted, Parliament became fixated with the details of its existing powers and how to increase them, passing motions on Maastricht and subsequent IGCs, without really updating Altiero Spinelli's proposals (Neunreither 2001a: 3). He suggests that part of Parliament's reluctance to pursue the federalist agenda was due to a fear by the Socialist Group of possible electoral repercussions from a hostile public opinion. While the influence of Parliament grew at Maastricht and Amsterdam, with reference to the nomination procedure for the Commission and co-decision, the impetus for this did not come from Parliament itself. Amsterdam and Nice were the opportunities for major reform of the entire institutional process and, yet, all the energies of Parliament were consumed by a narrow agenda, as Neunreither (2001a: 5) writes:

'While doing industriously its homework within an agenda which was narrowing from conference to conference, it forgot to ask whether the right questions were on the agenda.'

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<sup>79</sup> Voted 14 May 1984, OJ C 77/84: 33.



While Neunreither is correct to identify a narrowing of Parliament's ambitions, this was primarily due to the conditions of comparative leisure under which the Spinelli generation were operating. Parliament's powers were marginal prior to the SEA and it had plenty of time for own-initiative resolutions. Acquiring legislative powers since 1987 meant that Parliament has had less time for working on proposals far removed from the current reality. In limiting its proposals to requesting an extension of the co-decision procedure, Parliament has focused on what was possible and sought to increase powers over areas in which it already has expertise.

Table 7.1 illustrates the content of constitutional reform reports drawn up by the Institutional Affairs Committee and AFCO since 1995. While radical proposals, such as creating a Defence Commissioner within the Commission to manage European Security Policy and take over the WEU, have been dropped, remaining proposals have become more focused and successful, yet less ambitious. Table 7.1 also illustrates what the governments accepted at the various IGCs and at Laeken in 2001.

<b>Table 7.1: Content of Institutional and Constitutional Affairs Committee Reports, 1994-2001</b>									
<b>Reports and Treaties</b>	<b>Date</b>	Single Treaty	Legal Persona	Multi Speed Europe	Reduce QMV threshold	Reweight votes	Norm of QMV	Cap 700 MEPs	More Co-decision
Bourlanges/Martin - Committee	03-May-95	YES	YES	NO	YES		YES	YES	YES
Bourlanges/Martin - Plenary	17-May-95	YES	YES	NO	YES		YES	YES	YES
Dury/Maij-Weggen - Committee	04-Mar-96	YES	absent	absent	absent		absent	absent	YES
Dury/Maij-Weggen - Plenary	13-Mar-96	YES	absent	absent	absent		absent	absent	YES
Commission Document for IGC	28-Feb-96			NO			YES	YES	YES
Bourlanges/De Giovanni - Plenary	14-Nov-96	YES					YES	N/A	YES
<b>Treaty of Amsterdam</b>	<b>Jun-97</b>	<b>NO</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>delayed</b>	<b>extended</b>	<b>fulfilled</b>	<b>partly</b>
Opinion on Amsterdam - Méndez de Vigo/Tsatsos	Nov-97				dropped		YES	satisfied	YES
Anastassopoulos/Gebhardt - Committee	25-May-98								
Frischenlager - Committee	24-Jun-98			NO					
Bourlanges - Committee	21-Jan-99						YES		
EPP manifesto	04-Feb-99					YES			YES
PES manifesto	01-Mar-99					YES	YES		
ELDR manifesto	29-Apr-99	YES	YES				YES		YES
Dimitrakopoulos/Leinen - Plenary	18-Nov-99	YES		NO		YES	YES	YES	YES
Report on Charter - Duff/Voggenhuber - Plenary	16-Mar-00								
Dimitrakopoulos/Leinen - Plenary	13-Apr-00		YES	NO		abolish	YES	YES	YES
Duhamel - Committee	11-Oct-00	YES	YES	NO					
Gil-Robles Gil-Delgado - Committee	12-Oct-00			YES			YES		
<b>Charter of Fundamental Rights</b>	<b>14-Nov-00</b>								
<b>Treaty of Nice</b>	<b>Dec-00</b>	<b>NO</b>	<b>partly</b>	<b>YES</b>	<b>reversed</b>	<b>fulfilled</b>	<b>extended</b>	<b>reversed</b>	<b>NO</b>
Opinion on Nice - Méndez de Vigo/Seguro - Committee	03-May-01						YES	protests	YES
Report on Nice - Méndez de Vigo/Seguro - Plenary	31-May-01						YES	protests	absent
Poos - Committee	13-Sep-01						YES		
Leinen/Méndez de Vigo - Committee	22-Oct-01	YES	YES				YES		YES
Carnero Gonzalez - Committee	20-Nov-01	YES	YES	NO					
<b>Laeken Declaration</b>	<b>Dec-01</b>	<b>raises</b>	<b>raises</b>	<b>raises</b>					<b>raises</b>

<b>Table 7.1 (continued): Content of Institutional and Constitutional Affairs Committee Reports, 1994-2001</b>		Co-op procedure abolished	Assent for Treaties	EP submit Treaty Changes	Defence Comm- issioner	Integrate WEU	Merge Mr PESC with Comm- ission	Const- ructive abstention CFSP
<b>Reports and Treaties</b>	<b>Date</b>							
Bourlanges/Martin - Committee	03-May-95	YES	YES	YES	YES	YES		YES
Bourlanges/Martin - Plenary	17-May-95	YES	YES	YES	dropped	absent		YES
Dury/Maij-Weggen - Committee	04-Mar-96	absent	absent	dropped		YES		YES
Dury/Maij-Weggen - Plenary	13-Mar-96	absent	absent	dropped		YES		YES
Commission Document for IGC	28-Feb-96	YES						YES
Bourlanges/De Giovanni - Plenary	14-Nov-96	YES						
<b>Treaty of Amsterdam</b>	<b>Jun-97</b>	<b>mostly</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>fulfilled</b>
Opinion on Amsterdam - Méndez de Vigo/Tsatsos	Nov-97	YES	YES					
Anastassopoulos/Gebhardt - Committee	25-May-98							
Frischenlager - Committee	24-Jun-98							
Bourlanges - Committee	21-Jan-99							
EPP manifesto	04-Feb-99	YES	YES					
PES manifesto	01-Mar-99							
ELDR manifesto	29-Apr-99	YES	YES					
Dimitrakopoulos/Leinen - Plenary	18-Nov-99	YES	YES	revived		YES	YES	
Report on Charter - Duff/Voggenhuber - Plenary	16-Mar-00		YES					
Dimitrakopoulos/Leinen - Plenary	13-Apr-00	YES	YES					
Duhamel - Committee	11-Oct-00							
Gil-Robles Gil-Delgado - Committee	12-Oct-00					YES		YES
<b>Charter of Fundamental Rights</b>	<b>14-Nov-00</b>		<b>YES</b>					
<b>Treaty of Nice</b>	<b>Dec-00</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>fulfilled</b>	<b>NO</b>	<b>YES</b>
Opinion on Nice - Méndez de Vigo/Seguro - Committee	03-May-01	YES				satisfied	YES	
Report on Nice - Méndez de Vigo/Seguro - Plenary	31-May-01	absent				satisfied	YES	
Poos - Committee	13-Sep-01						YES	
Leinen/Méndez de Vigo - Committee	22-Oct-01	YES		YES			YES	
Carnero Gonzalez - Committee	20-Nov-01							
<b>Laeken Declaration</b>	<b>Dec-01</b>	<b>raises</b>	<b>raises</b>				<b>raises</b>	<b>raises</b>

<b>Table 7.1 (continued): Content of Institutional and Constitutional Affairs Committee Reports, 1994-2001</b>		<b>Integrate Third Pillar</b>	<b>Integrate Schengen</b>	<b>EU Citizenship</b>	<b>Human Rights</b>	<b>Trans- parency</b>
<b>Reports and Treaties</b>	<b>Date</b>					
Bourlanges/Martin - Committee	03-May-95	YES		YES	YES	
Bourlanges/Martin - Plenary	17-May-95	YES		absent	absent	
Dury/Maij-Weggen - Committee	04-Mar-96	YES		YES	YES	YES
Dury/Maij-Weggen - Plenary	13-Mar-96	YES		YES	YES	YES
Commission Document for IGC	28-Feb-96	YES	YES			
Bourlanges/De Giovanni - Plenary	14-Nov-96	YES		YES		YES
<b>Treaty of Amsterdam</b>	<b>Jun-97</b>	<b>YES</b>	<b>fulfilled</b>	<b>partly</b>	<b>NO</b>	<b>partly</b>
Opinion on Amsterdam - Méndez de Vigo/Tsatsos	Nov-97				partly	
Anastassopoulos/Gebhardt - Committee	25-May-98					
Frischenlager - Committee	24-Jun-98					
Bourlanges - Committee	21-Jan-99			YES	YES	YES
EPP manifesto	04-Feb-99			YES	YES	YES
PES manifesto	01-Mar-99				YES	YES
ELDR manifesto	29-Apr-99			YES	YES	YES
Dimitrakopoulos/Leinen - Plenary	18-Nov-99			YES	YES	YES
Report on Charter - Duff/Voggenhuber - Plenary	16-Mar-00			YES	YES	YES
Dimitrakopoulos/Leinen - Plenary	13-Apr-00					
Duhamel - Committee	11-Oct-00			YES	YES	YES
Gil-Robles Gil-Delgado - Committee	12-Oct-00					
<b>Charter of Fundamental Rights</b>	<b>14-Nov-00</b>			<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Treaty of Nice</b>	<b>Dec-00</b>			<b>partly</b>	<b>YES</b>	<b>partly</b>
Opinion on Nice - Méndez de Vigo/Seguro - Committee	03-May-01			YES	YES	YES
Report on Nice - Méndez de Vigo/Seguro - Plenary	31-May-01			absent	absent	absent
Poos - Committee	13-Sep-01					
Leinen/Méndez de Vigo - Committee	22-Oct-01			YES	YES	YES
Carnero Gonzalez - Committee	20-Nov-01					
<b>Laeken Declaration</b>	<b>Dec-01</b>			<b>raises</b>	<b>raises</b>	<b>raises</b>

<b>Table 7.1 (continued): Content of Institutional and Constitutional Affairs Committee Reports, 1994-2001</b>									
<b>Reports and Treaties</b>	<b>Date</b>	More economic policy	More social policy	More environment policy	EP Seat in Brussels	Anti-Fraud powers	Assent for appointing ECJ, ECA, ECB, Europol	EP elect Commission President	Commission initiative defended
Bourlanges/Martin - Committee	03-May-95	YES	YES						
Bourlanges/Martin - Plenary	17-May-95	absent	absent						
Dury/Maij-Weggen - Committee	04-Mar-96	YES	YES		YES	YES	YES	YES	YES
Dury/Maij-Weggen - Plenary	13-Mar-96	YES	YES		YES	YES	YES	YES	absent
Commission Document for IGC	28-Feb-96		YES						
Bourlanges/De Giovanni - Plenary	14-Nov-96	YES	YES			YES			
<b>Treaty of Amsterdam</b>	<b>Jun-97</b>		partly	partly	NO	fulfilled	NO	partly	YES
Opinion on Amsterdam - Méndez de Vigo/Tsatsos	Nov-97								
Anastassopoulos/Gebhardt - Committee	25-May-98								
Frischenlager - Committee	24-Jun-98								
Bourlanges - Committee	21-Jan-99								
EPP manifesto	04-Feb-99							YES	YES
PES manifesto	01-Mar-99		YES						
ELDR manifesto	29-Apr-99							YES	
Dimitrakopoulos/Leinen - Plenary	18-Nov-99		YES						
Report on Charter - Duff/Voggenhuber - Plenary	16-Mar-00		YES	YES					
Dimitrakopoulos/Leinen - Plenary	13-Apr-00				YES			YES	YES
Duhamel - Committee	11-Oct-00								
Gil-Robles Gil-Delgado - Committee	12-Oct-00								
<b>Charter of Fundamental Rights</b>	<b>14-Nov-00</b>		YES	YES					
<b>Treaty of Nice</b>	<b>Dec-00</b>	partly	partly	partly	NO	YES	NO	NO	YES
Opinion on Nice - Méndez de Vigo/Seguro - Committee	03-May-01								
Report on Nice - Méndez de Vigo/Seguro - Plenary	31-May-01								
Poos - Committee	13-Sep-01								
Leinen/Méndez de Vigo - Committee	22-Oct-01							YES	
Carnero Gonzalez - Committee	20-Nov-01								
<b>Laeken Declaration</b>	<b>Dec-01</b>							raises	raises

<b>Table 7.1 (continued): Content of Institutional and Constitutional Affairs Committee Reports, 1994-2001</b>		More power for Commission President	Cap Commission size	Cap ECJ, ECA size	Convention method	Abolish double mandate	Trans national lists
<b>Reports and Treaties</b>	<b>Date</b>						
Bourlanges/Martin - Committee	03-May-95						
Bourlanges/Martin - Plenary	17-May-95						
Dury/Maij-Weggen - Committee	04-Mar-96						
Dury/Maij-Weggen - Plenary	13-Mar-96						
Commission Document for IGC	28-Feb-96	YES	YES	YES			
Bourlanges/De Giovanni - Plenary	14-Nov-96						
<b>Treaty of Amsterdam</b>	<b>Jun-97</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>		<b>NO</b>	<b>NO</b>
Opinion on Amsterdam - Méndez de Vigo/Tsatsos	Nov-97		YES				
Anastassopoulos/Gebhardt - Committee	25-May-98					YES	YES
Frischenlager - Committee	24-Jun-98						
Bourlanges - Committee	21-Jan-99						
EPP manifesto	04-Feb-99	YES					
PES manifesto	01-Mar-99		YES				
ELDR manifesto	29-Apr-99		YES				YES
Dimitrakopoulos/Leinen - Plenary	18-Nov-99	YES	YES		YES		
Report on Charter - Duff/Voggenhuber - Plenary	16-Mar-00				YES		
Dimitrakopoulos/Leinen - Plenary	13-Apr-00	YES	YES				
Duhamel - Committee	11-Oct-00				YES		
Gil-Robles Gil-Delgado - Committee	12-Oct-00						
<b>Charter of Fundamental Rights</b>	<b>14-Nov-00</b>				<b>YES</b>		
<b>Treaty of Nice</b>	<b>Dec-00</b>	<b>YES</b>	<b>partly</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>
Opinion on Nice - Méndez de Vigo/Seguro - Committee	03-May-01	YES	partly		YES		
Report on Nice - Méndez de Vigo/Seguro - Plenary	31-May-01	YES	partly		absent		
Poos - Committee	13-Sep-01						
Leinen/Méndez de Vigo - Committee	22-Oct-01				YES		
Carnero Gonzalez - Committee	20-Nov-01						
<b>Laeken Declaration</b>	<b>Dec-01</b>		<b>raises</b>		<b>fulfilled</b>		<b>raises</b>

Presenting ambitious plans for constitutional reform runs the risk of attracting negative attention whether from the EU governments or public opinion. Hix (2002) attributes the success of Parliament in gaining incremental increases in power to its ability in interpreting existing rules in its favour and in building on greater expertise of procedures than that possessed by the governments. Hix (2002: 270) argues that Parliament has successfully threatened non-co-operation if governments do not accept its interpretation of the rules.

Under the Maastricht co-decision procedure, if Parliament and Council were unable to agree on a joint legislative text, Council could always seek to re-impose its original version. The directive would pass unless Parliament could muster an absolute majority of MEPs to apply a veto. This occurred for the first and only time in July 1994, when Council attempted to re-impose the Open Network Provision on Voice Telephony, only for this to be vetoed by an absolute majority of MEPs. Parliament made it clear that it would always veto a co-decision directive re-imposed in this manner. The other two occasions when Parliament vetoed a final text was following differing majorities between the plenary as a whole and Parliament's conciliation delegation to the Council, which had agreed the text. Hix points out that governments are unable to modify the Treaties so as to take back such a power, since treaty modification requires unanimity and Parliament will always have at least one ally on Council.

Parliament's success was due to careful drafting of its Rules of Procedure. Before Amsterdam, Rule 78 governing the co-decision procedure specified that if conciliation between Parliament and Council broke down, the Commission was automatically invited to withdraw its proposals and Council was requested to abandon the legislation. If Council persisted, the President-in-Office was required to explain

before Parliament the reasons for doing so. Parliament would then automatically hold a vote to reject the texts. Rule 78 prevented the leadership of Parliament or its political groups from reaching compromise with the Council if formal conciliation were unsuccessful, since the vote to reject would be held in any case (Hix 2002: 273).

At the 1996 IGC Parliament successfully argued for the re-imposition of a Council text to be abolished. There was no change in the balance of power since Council had only attempted to do this once and failed. Meanwhile, there was a collective efficiency gain, with a shorter procedure and greater transparency (Hix 2002: 275).

Maastricht allowed for Parliament to be *consulted* on the nomination of the President of the Commission, before giving its actual consent on appointing the Commission as a whole. Parliament's Rule 32 nevertheless required Jacques Santer to appear before the plenary in 1994, alongside the President-in-Office of the Council who would justify his nomination (Hix 2002: 276). Rejection of the nominee would mean *de facto* Council having to nominate somebody else. The drafters of Maastricht had not intended this. At Amsterdam, there was consequently a zero redistribution of the balance of power by institutionalising the assent procedure for the nomination of the Commission President.

In order to avoid being caught in similar traps in the future, governments went to greater pains in order to specify the *de jure* decision-making rules in the Treaties. This included stating that the Conciliation Committee between Parliament and Council could only consider and arbitrate between the differing texts of each institution at the time of the second reading. Before Amsterdam, Parliament had introduced new amendments at this stage as bargaining chips, because Maastricht had not specified that it could not do so. However, with regard to the appointment of the Commission, this did not prevent Parliament from going one step further in September 1999 by



forcing Romano Prodi to undertake to sack individual Commissioners who personally lost the confidence of Parliament.<sup>80</sup>

Previous studies have measured how representative of the Parliament as a whole are specific committees. While the representation of political groups on each committee is proportional, the same is not true when measuring other criteria, such as the member states of MEPs. Varela (2001) finds that the Fisheries Committee is dominated by MEPs from states or regions with large fisheries sectors, such as Spain, Denmark, or Scotland. Within the delegations, individual MEPs also self-select in terms of their interests. As such, I would expect the Institutional and Constitutional Affairs Committees to be dominated by MEPs from states that have a particular interest in constitutional affairs, whether they are federalist or Eurosceptic. Individual members of the committee, whose national delegations are not particularly pro or anti-European, may also self-select because of a personal interest in federalism or Euroscepticism.

Although the membership figures per national delegation do not tell us a great deal, the allocation of the important reports listed in Table 7.1 does. The rapporteurs appointed since 1995 have all been integrationists from the Socialist and EPP groups. The rapporteurs have also included Liberals and a Green. The Institutional Affairs Committee and AFCD have contained several notable sceptics, although they are in a minority so have a negligible impact. A member of the Swedish Left Party and opponent of EU membership for his country, Jonas Sjöstedt, had been a member of the committee before 1999, but switched to the Environment Committee, because he felt he could have a greater impact. He considered his influence within Institutional

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<sup>80</sup> Romano Prodi, Verbatim Reports of Proceedings of the European Parliament, *Official Journal of the European Communities*, 14 September 1999.

Affairs to be very limited because ‘it was full of federalists’.<sup>81</sup> Table 7.2 shows that a respective 12 and 11 percent of Parliament’s membership were members or alternate members of the Committee in 1997 and 2002, at the midway points of each Parliament. The alternate members are included because many of them play a leading role in the work of the committee. A glance at the percentage of each total national delegation (not party delegation) represented on the Committee indicates that the figures are skewed. The Austrians and Danes, including the hard Eurosceptic, Jens-Peter Bonde, are *over represented*, while this applied to the Belgians in 1997 only. However, these are relatively small delegations. Comparing the representation from the larger member states, we find that British and German MEPs are slightly *under represented*, while the Italians and Spanish have figures close to the mean at between 10 and 14 percent, and the French increase their tally from 8 to 15 percent between the two periods. There seems to be a bias towards integrationist member states, in particular from southern Europe. However, the two correlations of 0.873 and 0.911 indicate a high degree of proportionality. I would therefore predict that reports from this committee are not unrepresentative, in terms of party or national input, compared to the Parliament as a whole. Where there may be some bias is with regard to the self-selection of individual members of the committee. This is tested in Table 7.3.

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<sup>81</sup> Interview, Jan Johansson, Swedish official of the EUL Group, Brussels, January 2001.

**Table 7.2: Percentages and correlations of national delegations represented on the Institutional and Constitutional Affairs Committees in 1997 and 2002**

	MEPs	1997		2002	
		AFCO membership	percentage national delegation in AFCO	AFCO membership	percentage national delegation in AFCO
Austria	21	4	19	4	19
Belgium	25	6	24	2	8
Denmark	16	4	25	3	19
Finland	16	1	6	1	6
France	87	7	8	13	15
Germany	99	8	8	9	9
Great Britain	87	8	9	7	8
Greece	25	3	12	3	12
Ireland	15	1	7	0	0
Italy	87	11	13	9	10
Luxembourg	6	1	17	1	17
Netherlands	31	4	13	3	10
Portugal	25	5	20	3	12
Spain	64	7	11	9	14
Sweden	22	3	14	2	9
Total	626	73	12	69	11
<b>Correlation</b>		<b>0.873</b>		<b>0.911</b>	

**Table 7.3: Mean responses to constitutional questions in the MEP Survey of 2000, according to issue, and membership of political group or AFCO**

	n	N	Left-Right Self-Placement	Pro-/Anti-Europe Self Placement	Opinion on Economic Intervention	Opinion on Labour rights regulation	Opinion on EU-wide tax-rates	Opinion on Free Trade	Opinion on QMV in the Council	Opinion on QMV on JHA	Opinion on QMV in CFSP	Opinion on EP Legislative Powers	Opinion on EP Budgetary Powers	Opinion on EP power to Nominate Com. Pres.	Opinion on Commission as the EU Government	Opinion on right of each MS to a Commissioner
All	200	626	4.7	6.6	3.2	2.7	2.5	3.2	2.7	2.6	2.8	2.2	1.9	2.3	3.0	3.1
EPP	73	232	6.3	6.1	3.9	3.4	3.2	2.7	3.0	2.7	2.9	2.4	1.9	2.3	3.1	3.2
PES	63	181	3.3	7.4	2.6	1.9	1.8	3.4	2.2	2.0	2.6	2.2	1.9	2.2	2.5	2.8
ELDR	20	52	5.6	7.3	3.8	3.3	2.6	2.6	2.4	2.8	2.7	2.2	1.8	2.5	3.0	3.3
GREENS	13	48	3.0	8.2	2.5	1.7	1.3	4.4	1.9	2.0	1.8	1.4	1.3	1.5	2.3	2.8
EUL	14	42	1.9	5.5	1.9	2.1	2.2	3.6	3.4	3.1	3.4	2.2	1.9	2.5	3.5	3.2
UEN	5	30	5.6	5.2	3.0	3.0	3.6	2.8	4.6	3.4	3.6	4.0	3.2	3.8	4.0	4.6
EDD	5	16	5.4	2.4	3.8	3.2	3.4	4.3	4.0	3.8	4.0	2.8	2.4	2.8	5.0	2.6
<b>AFCO</b>	24	71	4.3	7.1	2.9	2.5	2.4	3.3	2.3	2.3	2.5	2.1	2.0	2.3	2.6	3.0
AFCO EPP	8	22	5.8	6.0	3.4	3.3	3.1	2.9	2.6	2.5	2.6	2.3	1.8	2.6	2.6	3.1
AFCO PES	9	18	3.2	7.7	2.4	1.7	1.9	3.6	1.9	2.2	2.1	2.2	2.3	2.2	2.5	2.8

Left-right self-placement on a scale of 1 to 10, with 1 being most left-wing and 10 being most right-wing. Pro/Anti-Europe Self-Placement scale also 1 to 10, with 1 equivalent to harder Euroscepticism and 10 equivalent to desiring a European Federal State as soon as possible. All other scales are 1 to 5, with 1 signifying 'strongly agree' and 5 signifying 'strongly disagree'. Data taken from the MEP Survey conducted as part of the 'How MEPs Vote' project, Economic and Social Research Council 'One Europe or Several' series, code L213 25 2019.

In 2000, the European Parliament Research Group circulated a detailed survey to all 626 MEPs on attitudes to a range of EU related questions. The total response rate was high for surveys of this kind at 200, rising to 24 out of the 71 members or alternate members of AFCO. As Table 7.3 shows, respondents to the survey took median

positions (between 2.0 and 3.0) on increasing: labour rights regulation (a typical left-right issue); EU wide tax powers; EP legislative powers; and the EP's powers to nominate the President of the European Commission. Respondents were also close to the median position on extending the use of QMV in the Council. Respondents of all Groups other than the UEN were particularly keen on extending their own legislative and budgetary powers, with the Greens taking the most *federalist* position on these questions. The finding that AFCO members placed themselves more to the left than do all respondents should be discounted in view of the higher rate of responses among Socialists than EPP members. This applies to all responses on policy issues concerned with the left-right dimension, such as labour rights regulation. However, pro-European self-placement is notably higher among AFCO members than among the total sample, indicating a possible self-selection of pro-integrationists on constitutional questions. On all issues concerned with greater integration or more powers for the Parliament, AFCO respondents are slightly more pro-integrationist than the total sample of MEP respondents. There was no overall difference in the differentiation of the mean respective positions on constitutional questions between all EPP and PES respondents on the one hand, and between EPP and PES respondents that are members of AFCO on the other. Although these data do not show that AFCO is internally any more consensual on constitutional issues than Parliament as a whole, they do show that both of the main groups within AFCO have stronger integrationist perspectives than their colleagues on other committees.

An explanation as to why Parliament has not challenged the CAP is that, although agrarian-sympathising MEPs do not form a majority in Parliament, they form a majority on the Agriculture Committee, through self-selection. The same logic can be applied to constitutional affairs. If federalists have a disproportionate influence on

AFCO, then I would expect this to be the reason why Parliament continues to approve resolutions for the IGC whose content is very integrationist. It is rare for the plenary to overturn or amend a text that has already been approved in committee.

The only occasion on which a text approved at plenary has differed from that approved by Committee since 1995 was the Bourlanges/Martin Report<sup>82</sup> of 1995. In 1995, plenary deleted calls for the creation of a Defence Commissioner, integration of the WEU into the Commission, the creation of EU citizenship, the EU signing up to the ECHR, as well as greater development of economic and social policy to flank the internal market and the move towards EMU.

On other occasions, including the reports prepared before and after Amsterdam, Nice and the Charter of Fundamental Rights, the texts approved by committee and plenary did not differ significantly.

The rest of the chapter tests the hypothesis that that Parliament finds consensus on constitutional issues. This is in the collective interest of all actors in Parliament, with the exception of the hard Eurosceptic minority, so that the institution's powers can be increased. Like other committees, AFCO may not be representative of opinion in the Parliament as whole, due to self-selection, however it is this committee, which prepares Parliament's constitutional policy and seeks maximum consensus. As revealed in chapter 3, roll call votes concerned with institutional issues are amongst the most consensual in Parliament, a finding that would suggest the accuracy of the hypothesis. The hypothesis is tested qualitatively, through analysis of the committee reports, the content of plenary debates, individual roll call votes, and in-depth interviews.

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<sup>82</sup> OEIL (Legislative Observatory of the European Parliament), INI/1994/2193.

## **7.2. The Road to Amsterdam**

In terms of legislative powers, Maastricht had given Parliament the powers illustrated in Table 2.1. Assent allows Parliament to say ‘Yes’ or ‘No’ without amendment. Co-operation, which dates back to the SEA, allows Parliament to amend legislation. In alliance with the Commission, Parliament could make it easier for a non-unanimous Council to accept its amendments, by a qualified majority, whereas unanimity was needed to reject the amendments. Parliament could also veto legislation unless overruled by a unanimous Council. Co-decision has theoretically made Council and Parliament co-legislators, although if the two institutions were unable to agree, Council could force through legislation unless vetoed by an absolute majority of MEPs. One of the most significant reforms of Amsterdam was to change this so that any failure to secure agreement at conciliation would lead to the legislation falling. Rather than a veto operating through absolute majority, it could simply be exercised by Parliament failing to vote actively in favour of legislation.

In his statement to Parliament on the Corfu Council of June 1994, the Greek Foreign Minister, as President-in-Office of the Council, announced that Corfu had agreed to Parliament being able to send two representatives to sit in on the working groups of the 1996 IGC.<sup>83</sup> This was highly significant, since it opened the door not only for this to be repeated in the IGC of 2000, but also for the full participation of parliamentary delegations in the Conventions for Fundamental Rights and the Future of Europe.

The Bourlanges/Martin Report<sup>84</sup> on the work of the Reflection Group on political priorities for the IGC was considered during the first half of 1995. This was a taster for a further report that was submitted in March 1996, just before the opening of the

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<sup>83</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 20 July 1994.

<sup>84</sup> OEIL, INI/1994/2193.

IGC at Turin. The Committee called for the possibility of constructive abstention under the CFSP (Common Foreign and Security Policy), meaning that a neutral member state, for example, could abstain from CFSP decisions, opting-out without having to veto the initiative for participating member states. This provision was eventually adopted at Amsterdam. In part, the same was also true of calls by the rapporteurs to integrate asylum and immigration into the Community area. The Committee also called, less successfully, for the development of stronger social and economic policy to counterbalance the powers of the ECB under EMU. The calls that disappeared from the final text as voted by the plenary referred to the creation of a Defence Commissioner to assume the powers of the WEU and manage the Defence aspects of CFSP, as well as enhanced citizenship, accession to the ECHR and greater transparency. Although these did not materialise at Amsterdam, the Cologne Council of 1999, the Charter of Fundamental Rights, and the subsequent Convention placed them back on the agenda on the Future of Europe and Treaty of Rome of 2004.

Bourlanges/Martin as approved by plenary advocated combining all texts including those of Euratom and ECSC, abolishing the pillar structure so that Parliament and Commission would be involved in both CFSP and Justice and Home Affairs, providing the EU with legal personality and ending a *multi-speed* Europe. These were consistent proposals that were maintained by Parliament, although not adopted by the IGC. Since the Nice period, Parliament no longer referred to multi-speed Europe, since it has accepted that this area is least likely to change. Policies urged by Bourlanges/Martin that appeared in the 2004 Treaty of Rome included co-decision for all legislation, the abolition of the co-operation procedure, the use of consultation only for CFSP, and the use of the assent procedure by Parliament for ratifying Treaty modification. Calls in the report for the QMV threshold to be lowered below 71



percent of weighted votes and opposition to the use of a double majority of states and population on Council, on the grounds that Parliament alone represents population, disappeared for ever more.

Bourlanges/Martin was a radical plan for the 1996 IGC and consequently fully supported in plenary by the leaders of the three largest groups. The only other small group to vote in favour was the ERA (Radicals), led by Catherine Lalumière. Nevertheless, the consensus in favour was overwhelming, since these four groups accounted for 76 percent of Parliament's membership. The Radical Left doubted whether the proposal could address the real needs of people, while the Gaullist-dominated EDA Group was opposed because of the 'institutional approach over the will of the people', the Greens announced their intention to abstain due to fear of a 'monster treaty' or 'Maastricht-bis'. Forza Europa, by this point in opposition in Italy, also abstained because the report was 'not sufficiently innovative'. The report was opposed by the Europe of Nations Group, fearful of a 'super-state', by Le Pen's National Front in protest at 'aberrations' and 'mystifications' and by National Alliance from Italy, which succeeded in being simultaneously pro and anti-system by insisting that Parliament should make a definite policy choice before engaging on institutional reforms.<sup>85</sup>

The Dury/Maij-Weggen Report<sup>86</sup> prepared for the opening of the IGC at Turin in March 1996 made several demands that were eventually incorporated in whole or part into the Amsterdam Treaty. These included an improved definition of European citizenship, the integration of visa, asylum and immigration policy, development of an improved employment policy, a stronger CFSP and more effective anti-fraud measures. The Commission's own document of February 1996 went further by

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<sup>85</sup> Verbatim Report of Proceedings of the European Parliament, *Official Journal of the European Communities*, 17 May 1995.

<sup>86</sup> OEIL, COS/1996/2013.

suggesting that all areas decided by the co-operation procedure and some of those reserved only for consultation should be moved into co-decision. The Commission also called for an increase in the powers of its President, who would have a choice in selecting Commission members, for the abolition of unanimity in Council except for certain key areas for which a version of ‘super-QMV’ could be used, and the need to cap the membership of the Court of Justice (ECJ) following Enlargement. Parliament’s call for a simplified and more comprehensible treaty system, signing up to the ECHR, and election of the Commission by Parliament from a shortlist of names provided by Council was ignored, although they remained on the agenda until 2003. Parliament also called for the power of assent on nominations to the ECJ, ECB, Europol, and the Court of Auditors, although these demands have since been dropped. Parliament and the Commission were also united unsuccessfully in rejecting a ‘multi-speed Europe’, despite what had already occurred with regard to the opt-outs on social policy and EMU.

The Bourlanges/De Giovanni Report on the co-decision procedure<sup>87</sup> was passed in November 1996 in time for the Dublin Council, which considered a first draft of the new treaty. The report simply called for the extension of co-decision to all legislative acts, as well as on action against fraud, citizenship, research, Trans-European Networks (TENs), competition, EMU, industry, and Euratom. Table 2.2 illustrates the changes to legislative powers enacted at the conclusion of the Amsterdam Council in June 1997.

One of the most significant reforms, although it did not appear among the demands of the Committee, was the change to the co-decision procedure. This made Parliament the equal co-legislator of the Council, by removing Council’s power to re-impose a

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<sup>87</sup> OEIL, COS/1996/2165.

text on Parliament. As mentioned above, pressure for this change had taken the form of the attitude that Parliament had adopted with regard to the procedure under Maastricht and, presumably a perception by the governments that there would be no *de facto* change to the balance of power (Hix 2002).

With regard to Justice and Home Affairs, visas, asylum and immigration were moved from the third to the first pillar, while Schengen was communitarised. Although these powers were, for at least a transitional period, to be reserved for the consultation procedure only, being in the first pillars allows for parliamentary and ECJ oversight and the Commission's exclusive right of legislative initiative. Respect for human rights was made an explicit criterion for EU membership, while a mechanism was introduced allowing for member states to be suspended if human rights were breached (Duff 1997: 8).

QMV was introduced for visa policy, although this would come into effect only five years after the Treaty had been ratified. Meanwhile, the application of QMV to asylum and immigration after five years was made dependent on a unanimous one-off decision by Council (Duff 1997: 20), the *passarelle*. In addition, Parliament was granted budgetary power over the remaining areas of the third pillar, being police and judicial co-operation. The Swedish government had lobbied for a commitment to 'full' employment to appear in the Treaty in order to balance the powers exercised by the ECB over EMU. This was consistent with the demand of the then left-wing Parliament concerning social policy. The election of a left-wing government in France in June 1997 led to the inclusion of an employment chapter, however the commitment to 'full' employment was downgraded to 'high', while promoting employment remained a matter of 'national competence' (Duff 1997: 63). The main contention was the reference to 'incentive measures', implying expenditure, although subsidiarity in

employment policy was made explicit. In the view of Duff, the EU could do nothing about unemployment that it could not do beforehand. The British opted into the social chapter but were unwilling to support further extensions of QMV in social policy, although more was added on the equal treatment for men and women (Duff 1997: 73).

Co-decision and unanimity, rather than QMV, were introduced for freedom of movement, social security for migrants and recognition of professional qualifications (Duff 1997: 88). Rules on transparency in the institutions subject to co-decision were consistent with the demands of Parliament.

In line with the wishes of Parliament, CFSP was enhanced, although remaining firmly intergovernmental. A common strategy could be decided by unanimity, while joint actions beneath them would be determined by QMV plus the consent of two-thirds of the member states. Any state could opt-out from individual strategies, an approach called *constructive abstention*. However, if the weighted votes of constructive abstainers amounted to one-third of the total, the strategy could not proceed. A single member state could still impose an active veto on the others by insisting that the decision be referred to the European Council of Heads of Government for a decision by unanimity (Duff 1997: 196). Parliament was granted scrutiny of spending under CFSP and continued to exercise power it already had over ratifying treaties with third countries. The novelty was to create the post of CFSP High Representative (or Mr PESC), exercised by the Council Secretary-General. The High Representative was supposed to be the EU's external representative, although there was overlap with the functions of the Commissioner responsible for external political relations.

Through 1997, the future size of the Commission and weighted voting on Council become inextricably linked as issues difficult to resolve. The large states could not

agree a solution with smaller states. Helmut Kohl successfully proposed a delay and a decision was made to hold a new IGC to sort out the *leftovers* (Duff 1997: 132).

For Parliament, the failures of Amsterdam included not extending the assent procedure for trade agreements under the WTO, own resources, or amendment of the EU Treaties. The extension of co-decision was not met with extension of QMV, except over Research and Development and areas previously decided by co-operation (Duff 1997: 149). A relatively non-controversial proposal to allow Parliament to exercise assent over appointments to the Court of Auditors was blocked (Duff 1997: 170), perhaps over fears that Parliament would then press for powers of appointment to the ECJ.

The Méndez de Vigo/Tsatsos Report on Amsterdam<sup>88</sup> gave critical support to the ratification of the Treaty in November 1997, deploring the situation of the *leftovers*:

‘MEPs were disappointed that the treaty had failed to take the concrete decisions on the reforms of the institutions which will be needed if an enlarged European Union is to function more efficiently and more democratically.’

Parliament called for more involvement in the next IGC and a binding arrangement that a new treaty would only enter into force with parliamentary assent. This was not granted, although Parliament has since been involved in both the Fundamental Rights Convention and the Convention on the Future of Europe. Parliamentary assent was required for the adoption of the Charter in 2000.

The three issues in need of attention according to the rapporteurs were reform of the weighting of votes in Council and the size of the Commission, QMV to be the general rule on Council and the restriction of unanimity to constitutional issues alone. Of

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<sup>88</sup> OEIL, COS/1997/2237.

these, only the first was addressed at Nice, although there was a modest extension of QMV.

The Frischenlager Report<sup>89</sup> on Enhanced Co-operation in the Amsterdam Treaty offered little support for the concept. Parliament had feared that its powers would be reduced if further versions of a multi-speed Europe were developed at an intergovernmental level. Frischenlager concluded that Enhanced Co-operation should be used only exceptionally and ‘as a last resort in cases of political emergency’, while being subject to democratic scrutiny by Parliament. Despite the opt-outs from EMU, British, Danish, and Swedish MEPs can still participate in the Economic and Monetary Affairs Committee of Parliament and take full part in legislative proceedings, although their Finance Ministers cannot take part in Council meetings concerning the euro. Neunreither (2001a: 10) expresses doubts about whether MEPs from non-participating states could in reality continue to take part in legislation from which their member state is excluded and suggests that this could pose problems for the integrity of Parliament. Many of the same points were repeated in the Gil-Robles Gil-Delgado Report<sup>90</sup> on increased co-operation, tabled to AFCO in October 2000 in the run up to Nice. Gil-Robles affirmed that ‘the Commission’s right of initiative, full involvement by Parliament and judicial review by the ECJ should be the rule for all closer co-operation’.

In the wake of Amsterdam, the Bourlanges Report<sup>91</sup> on the decision-making process in the Council in an enlarged Europe clarified Parliament’s position. It repeated Parliament’s positions on QMV and greater transparency, expressed the hope that citizens’ rights would be enshrined and that the High Representative would assume

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<sup>89</sup> OEIL, COS/1997/2243.

<sup>90</sup> OEIL, INI/2000/2162

<sup>91</sup> OEIL, INI/1998/2142.

the executive functions of the Council and sit in the Commission, while the rotating presidency of the Council would continue to operate for legislative purposes.

Despite certain drawbacks, the Parliament was a winner from the Amsterdam process, in terms of gaining more power from a reformed co-decision procedure, the transfer of additional policy competences to the First Pillar and co-decision, and a reformed Commission appointment procedure. These gains were achieved through the consensus of the main pro-system groups in Parliament. The issues that were left over from Amsterdam would prove to be intractable and difficult to resolve at the subsequent IGC. This is the subject of the next section.

### **7.3. The Leftovers from Amsterdam**

Of the policy commitments of the major party families in the 1999 European elections, those of the PES were the most bland. They were vague and much less radical in integrationist terms than the manifestos of the EPP or Liberals. However, the Socialists called for a Charter of Rights and a consultative body to draft it.<sup>92</sup> It was the same PES party leaders who as members of the Council at Cologne in June 1999 decided to establish the Convention to draft the Charter. Point 14 of the same manifesto called for subsidiarity and ‘bringing the European Union closer to the People’, without specifying anything. Point 21 on reform of the EU institutions emphasises *leftovers* and the role of the national parliaments, but without any concrete suggestions:

‘In particular the European Union must agree on the reforms left over from the Amsterdam Summit – on the size of the Commission, the weighting of votes and the application of qualified majority voting. The European Parliament must make full use of its increased powers of

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<sup>92</sup> Party of European Socialists, *Manifesto 1999*.

legislation and scrutiny and build a closer partnership with national parliaments. The European Commission needs to be better organised and more accountable.’

The EPP manifesto was more explicitly integrationist, although the EPP party did not represent the main centre-right parties of Britain, France, and Italy at the time. The EPP argued that a constitution must have a Bill of Rights which accords with the ECHR and that the various treaties should be co-ordinated into a single document that also comprises fundamental rights. This standpoint coincides more closely with the approach of what had been a left-wing Parliament than with the proposals of the PES. The EPP advocated either a re-weighting of Council votes or an introduction of a double majority system in Council of member states and population. Notwithstanding the links with agriculture of some EPP member parties, the manifesto stated that ‘the co-decision procedure must apply to all fields of European legislation, including agricultural policy’. Consistent with the approach of Parliament, the EPP defended the need for Commission independence and retention of the monopoly of legislative initiative, the possibility of censuring individual Commissioners by Parliament, and the assent of Parliament prior to amendment of the Treaties.

The ELDR was the only party federation committed to transnational lists in European elections. It wanted to increase access of the citizens to the ECJ and Ombudsman, for the EU to sign up to the ECHR (an objective that was reached *de facto* by the constitutionalisation of the Charter of Fundamental Rights in 2004), to make QMV the general rule for decision-making in Council, to make Commissioners individually and collectively responsible to Parliament and for QMV and co-decision to be adopted across the board, although the assent of Parliament would be required for Treaty change. The ELDR went further than the other federations by undertaking to bring Europol under ECJ jurisdiction. It concluded:



‘Our goal remains a constitution of the Union, including a Bill of Rights, in which powers are distributed rationally between the Union, its member states and their regions, the Council and Parliament are equal legislative partners, and citizens know how they are governed, by whom and from where. In this constitution the democratic legitimacy of the European Union will be guaranteed.’

The Manifesto of the European Federation of Green Parties emphasised democracy and human and civil rights, like the ELDR. It supported a public constitutional debate on the future of the EU, the incorporation of civil and ecological rights into the Treaty, the ability to censure individual Commissioners, and the extension of co-decision.

The constitutional policies of the major party families were largely compatible, and in large part reflected in the Laeken Declaration and realised in the 2004 Treaty of Rome. The commitments of each of the party federations would appear within AFCO reports during the 2000 IGC and afterwards. The Dimitrakopoulos/Leinen Report<sup>93</sup> on the preparation of the new IGC incorporated some of these proposals. It included the need for broad public debate, a proper dialogue with applicant member states, a constitutionalisation of the EU with a single treaty, fundamental rights, parliamentary assent for treaty changes, QMV and co-decision for all legislation, the right to remove individual Commissioners, extension of ECJ jurisprudence over CFSP and a strengthening of employment policy. None of these demands were met by Nice, but they remained part of the agenda and were discussed by the Convention on the Future of Europe. Representatives of the accession states, for example, were involved in the workings of the Convention. The report’s calls for a cap on the membership of the Commission, protection of the Commission’s right of initiative under the First Pillar,

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<sup>93</sup> OEIL, COS/1999/2135.

a strengthening of CFSP and merger with the WEU were met by Nice. Most of its proposals were eventually incorporated in the Treaty of 2004.

The report was approved by MEPs from the major groups, while the Green and Radical Left Groups were divided. The British Conservatives broke from the EPP to oppose the report alongside smaller Eurosceptic formations, as well as the Socialists from Portugal and Luxembourg.

Jo Leinen and Dimitris Dimitrakopoulos produced a follow-up report<sup>94</sup> in April 2000, calling for a double majority system in Council, of states and population, to replace the system of weighted votes. The second report also repeated calls for Commission independence, but this time as a way to protect the interests of member states that did not have a Commissioner following Enlargement. Parliament wanted to enshrine the *Prodi procedure*, allowing the President of the Commission to dismiss a Commissioner who lost the confidence of Parliament, to make Brussels rather than Strasbourg its permanent home, allow for official recognition of European political parties, incorporate the Charter of Fundamental Rights into the Treaty and abolish the pillar structure and intergovernmentalism. Apart from constitutionalising the *Prodi procedure* and establishing the single seat of the European Parliament in Brussels, all of these measures appear in the 2004 Treaty. At Nice, Parliament failed in nearly all of these initiatives, although some of them were put on hold and the new treaty contained a clause regarding the funding of political parties. Most of the main groups voted in favour of this report, the Greens were divided, while the Radical Left Group, British Conservatives and all parties from Austria, Portugal, Luxembourg, and Denmark were opposed. British Labour, the Belgian Socialists, and Swedish and Finnish Social Democrats abstained. This was in protest either at the federalist content

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<sup>94</sup> OEIL, CNS/1999/0825.

of the report or its advocacy of the double majority rather than weighted voting on Council.

The Duhamel Report on the Constitutionalisation of the Treaties<sup>95</sup> provided a plan of how a single treaty might be organised. It should appear in a brief and readable format, containing fundamental provisions, and should be drawn up by a Convention similar to the one, which drafted the Charter of Fundamental Rights.

The Duff/Voggenhuber Report on the Charter of Fundamental Rights<sup>96</sup> was presented to Parliament in March 2000, during the deliberations of the drafting Convention. This was the first joint report from AFCO whose authors were drawn from the Liberal and Green groups, rather than the EPP and Socialists. The motivation for AFCO to take this decision was to broaden consensus by directly including the smaller, pro-integration groups, and to balance the attribution to the two larger groups of the pre and post-Nice reports, as well as the appointment of Parliament's two representatives to the IGC. The Duff/Voggenhuber report warned that the final assent of Parliament would depend on incorporation into the Treaty, amendment being subject to the same procedure as original drafting plus assent of Parliament, consent of Parliament if fundamental rights were to be restricted, inclusion of the right to strike and right to association in trade unions, application to Second and Third Pillars, binding states in transposing European law, protecting rights with regard to IT and biotec, confirming women's rights, non-discrimination, and environmental protection. It called for the Charter to be incorporated in the Treaty and for the EU to join the ECHR. Most of these demands were agreed and included in the final version of the Charter. Parliament did not follow through its threat to veto the Charter when it was not included in the Treaty.

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<sup>95</sup> OEIL, INI/2000/2160.

<sup>96</sup> OEIL, COS/1999/2064.

The question of including the Charter within the treaties at a later date was left open and was resolved by the Treaty of 2004. The Charter covers many of the civil and human rights issues for which Parliament had called. The Convention method of its drafting was also significant, representing a departure from the intergovernmental method of treaty change, with the involvement of 16 MEPs and two members of each of the 15 national parliaments, alongside government representatives.

Parliament ratified the Charter in November 2000, one month before Nice, by a broad consensus of 410 votes to 93 with 27 abstentions. It was supported by MEPs from all the main political groups, including the Greens. The Radical Left Group was divided on the issue, while the British Conservatives, far right and Eurosceptics were opposed.

Praise for the Treaty of Nice itself was more muted. Table 7.4 shows the modest transfer of legislative power to Parliament. Article 7.1 makes it easier to establish a breach of fundamental right in a member state and to institute sanctions, for which a super-qualified majority of four-fifths of member states, rather than unanimity minus the state in question, is required (Duff 2001). At the same time Parliament can itself initiate proceedings for sanctions against a member state by a two-thirds majority. Asylum policy moved into unanimity and co-decision, unless Council chose to adopt QMV for it in 2004. There was also a new *passarelle* permitting Council to decide unanimously to move measures for protection of dismissed workers, collective defence of workers and employers and conditions of employment for third country nationals into QMV and co-decision. Reform of structural and cohesion funds will be decided by QMV and assent from 2007. QMV and co-decision were introduced for incentive measures to promote non-discrimination, measures to allow citizens to move freely, with the exception of provisions on passports and social security, judicial co-

operation in civil matters, except on family law, support for actions in industrial policy, economic and social cohesion outside of structural and cohesion funds and the new parties' statute (Art 191). Fighting social exclusion and the modernisation of social security systems were added to the objectives of social policy.

QMV was introduced for the Council's powers of appointment of the High Representative, the President and members of the Commission, the Court of Auditors, the Economic and Social Committee, and Committee of the Regions. Nice also established Eurojust as an agency to combat fraud against public finances that will operate under similar arrangements to those concerning customs co-operation.

A significant development at Nice was the change to Enhanced Co-operation, allowing for it to apply to other areas beyond CFSP. A minimum of eight member states are required for it to proceed, but may only be used in ways that reinforce integration. Parliament gained the right to be *informed* about initiatives in CFSP, to be *consulted* on First Pillar issues of Enhanced Co-operation.

Like Neunreither (2001a), Duff (2001) suggested that this is not an advance for Parliament:

'In the first pillar the Parliament is only to be consulted on moves towards the formation of an inner core in areas where unanimity pertains in the Council, such as fiscal policy. As these are exactly the areas where the experiment of closer co-operation is likely first to be attempted, this amounts to a very serious setback for the Parliament.'

**Table 7.4: New legislative powers granted to Parliament at Nice**

<b>Assent plus QMV, simple majority in EP from assent plus unanimity in Council</b>	<b>Co-decision plus QMV from co-decision plus unanimity in Council</b>
Nomination of President of Commission Appointment of Commission	Free movement of people
<b>Assent plus QMV, absolute majority in EP from assent plus unanimity in Council</b>	<b>Co-decision plus QMV from consultation</b>
Sanctions against member state <sup>97</sup> Reform of structural funds <sup>98</sup>	Combating discrimination Actions in Industrial policy Cohesion outside structural funds Protection for dismissed workers <sup>99</sup> Collective defence of workers and employers <sup>97</sup> Employment conditions for third country nationals <sup>97</sup>
	<b>Co-decision plus QMV: new power</b>
	Judicial co-operation in civil matters Parties' statute
	<b>Co-decision plus unanimity in Council from consultation</b>
	Asylum policy <sup>100</sup>

Once the Union reaches a membership of 27, Nice gave Council the power to decide unanimously and without consulting Commission or Parliament to reduce the number of Commissioners. The Treaty of 2004 proposed changing this so that the Commission will be reduced to 18 in 2014, based on the principle of equal rotation between member states. The reorganisation of vote weighting in Council worked in favour of the largest states, with the QMV threshold raised from 71 to 75 percent,

<sup>97</sup> May be initiated by EP, subject to two-thirds majority. Super QMV of four-fifths of member states required.

<sup>98</sup> From 2007.

<sup>99</sup> Subject to *passarelle* or unanimous Council decision to use QMV and co-decision.

<sup>100</sup> From 2004, Amsterdam *passarelle* allows asylum policy to be moved to QMV in Council subject to unanimous decision by European Council.

representing a minimum 62 rather than 58 percent of the EU population. At a time when consensus in Council is more difficult to reach on account of enlargement, raising these thresholds is a clear return to intergovernmentalism and a setback for Parliament and Commission. The number of MEPs per member state entered into the bargaining process concerning Council votes, with the final result that the ceiling of 700 MEPs agreed at Amsterdam was breached, to the annoyance of Parliament.

The distinction between the three pillars remained strong, opt-outs and the co-operation procedure survived, EU budget expenditure remained unchanged, and the EU was not enabled to join the ECHR.

One official remarked that reform of Council votes was disastrous. The French had a particular objection to parity with Germany, although the population of Germany exceeds that of France by 23 million. The number of MEPs has been scaled down for the other large states so that Germany has more representation in Parliament to compensate it for not having more votes on Council (Neunreither 2001b). Parliament had wanted a double majority system for Council, a proportional quota for MEPs per country and co-decision with QMV. Those opposed to these measures, like the British, a larger country, would have gained, although they and the French wanted QMV to be an overwhelming majority. The IGC spent too much time in arguments about whether the QMV threshold should be 71 or 75 percent. This was considered 'ridiculous if you do not actually know the relative weights of each country, since that had not yet been agreed'. On this question, Parliament was too divided, also within groups, to make more of an impact, since it reflects the same divisions as found on Council. The lack of co-decision on Enhanced Co-operation was 'disappointing'. Although Nice was a 'disappointment', this official felt that the post-Nice period is

what really mattered, in particular the insertion of the Charter into a future treaty and co-decision to accompany QMV.<sup>101</sup>

Members of AFCO differed in their views of Nice, although nobody considered it a success. Andrew Duff, Group Co-ordinator on AFCO for the ELDR Group, favoured the very limited extension of QMV and co-decision and the granting of legal personality to Parliament, allowing him to 'sue the Council', although the Treaty was a 'disaster' that his Group would consider opposing.<sup>102</sup> Richard Corbett, Co-ordinator for the Socialist Group, believed the results unavoidable in view of the lack of consensus by governments. For him the task was to persuade reluctant pro-Europeans to support ratification so that Enlargement could proceed.<sup>103</sup> Officials from the Radical Left and Green Groups believed that, despite divisions within their Groups, it was necessary to make Nice work, while making an effort to involve civil society and trade unions more actively in future constitutional revisions.<sup>104</sup>

The Méndez de Vigo/Seguro Report on the Treaty of Nice was highly critical of the outcome, but reluctantly urged ratification:

'It should be noted that Parliament regrets profoundly that the Treaty of Nice has provided a half-hearted and in some cases inadequate response to the matters encompassed within the already modest Intergovernmental Conference agenda.'

The report hoped that the shortcomings could be addressed, but noted that decision-making had become more rather than less complicated than before, contrary to the wishes of Parliament, that QMV exists in many areas where there is no co-decision and that co-decision co-exists alongside unanimity. The report regretted the retention

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<sup>101</sup> Interview, Maria-José Martínez-Iglesias, official in the Secretariat of AFCO, Brussels, 22 January 2001.

<sup>102</sup> Interview, Brussels, January 2001.

<sup>103</sup> Interview, Brussels, January 2001.

<sup>104</sup> Interviews, Roberto Galtieri, EUL Group, and Petra Prossliner, Green Group, Brussels, January 2001.



of the pillar structure, the removal of the cap of 700 MEPs and the creation of unnecessary duplicate structures in CFSP. It repeated Parliament's call for the High Representative and office of the Commissioner for external relations to be merged in a Commission Vice-Presidency with specific obligations to Council, eventually delivered by the Treaty of 2004. The report called for the new IGC to be based on the Convention method. It was approved by all of the major groups, although the British Conservatives, Finnish Centre Party, Eurosceptics, and the far right opposed it, while some British Labour and Portuguese centre-right MEPs abstained. The Green and EUL Groups were divided, although most of the Greens voted in favour. A few weeks earlier in May 2001, AFCE had called for the involvement of applicant states in a future Convention and incorporation of the Charter into the Treaty. Many of the changes eventually adopted by the Convention on the Future of Europe and retained in the 2004 Treaty reflected the priorities of a wide consensus in the European Parliament.

Parliament found itself compelled to endorse the Treaty of Nice. While Enhanced Co-operation, the increase in MEPs, and what it viewed as an unsatisfactory re-weighing of votes in Council were the drawbacks for Parliament, extension of co-decision and QMV was very modest. The few positive developments were the new power of Parliament and MEPs to bring constitutional and non-constitutional cases before the ECJ and, most significantly, the chance of incorporating the Charter into the treaties in the future and the establishment of the Convention model with participation of MEPs and national members of parliament becoming unstoppable.

#### **7.4. Post-Nice and the Return of the Leftovers**

The contents of previous reports fed into that of Jo Leinen and Iñigo Méndez de Vigo on the Future of the European Union,<sup>105</sup> presented to plenary in November 2001, just before the Laeken Council. It called for a Convention involving MEPs and national parliamentarians to be established in order to draft proposals for the IGC of 2003 to 2004. This followed a decision ten days earlier by Council to support the Convention method, to address issues of subsidiarity, the role of Parliament and national parliaments in an enlarged EU, the continuing development of CFSP and details, or *leftovers*, concerning the decision-making procedures. In October 2001, AFCO had also called for the Convention to address the tasks of Council, to review the rotating Council presidencies, the introduction of QMV and co-decision for all legislation, the election of the President of the Commission, integration of the Charter into the future Treaty and integration of police and judicial issues remaining in the Third Pillar. At the same time, Carlos Carnero Gonzalez had drawn up a short report for AFCO,<sup>106</sup> simply calling for a single treaty and the abolition of the pillar structure.

In establishing the Convention, the Laeken Declaration of December 2001 left many of these questions open but provided a mandate so that they could be considered. The agenda it established comprised better division of competences, simplification of the Treaties, more democracy and transparency, including the possible election of the Commission, a permanent Council presidency, transnational lists in EP elections, reform of the legislative and executive responsibilities of Council, an enhanced role for national parliaments perhaps through a new institution, greater use of QMV, a reform to deal with the overlap between the High Representative and Commissioner

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<sup>105</sup> OEIL, INI/2001/2180.

<sup>106</sup> OEIL, INI/2001/2021.

for external political relations and the possibility of a single treaty text. Such a text could be split into two sections, a basic constitutional text incorporating the Charter, followed by a more detailed synthesis of existing treaties and decision-making procedures. Differing methods of amendment would apply to the two sections. Finally, the Laeken Council mandated that civil society should be fully consulted by the Convention. Apart from placing the role of national parliaments on the agenda, each of these open questions coincided with the views of Parliament.

Although the Conventions established by the Cologne and Laeken Councils were elite-based, the involvement of parliamentarians was of fundamental importance (McCrudden 2001). Hix (2002) writes of how Parliament was able to use superior expertise and control over its own Rules of Procedure to increase its powers at Amsterdam, with regard to co-decision and the Commission appointment procedure. In a similar vein, the participation of parliamentarians in the Convention and their greater specialisation made this a method that became unstoppable, since governments needed to place their positions in the public realm during the Convention, finding it more difficult to oppose the general consensus than when in an IGC. The participation of representatives of the governments and parliaments of the applicant states also increased its legitimacy. The most specialised members of the Convention, being the 16 MEPs and the ex-officio President Valéry Giscard d'Estaing and Vice-Presidents Giuliano Amato and Jean-Luc Dehaene, all former heads of government, had the power to set the agenda by pitching a final text at a level, which the governments will find difficult to oppose actively.

The phenomenon of the *leftovers* is significant in another sense. These are controversial issues connected to national pride that are difficult to overcome. Governments fearful of hostile public opinion shy away from *surrendering* privileges,

such as the equal number of Council votes that France had with Germany. Delegating the resolution of these issues to a Convention may allow governments to escape the short-term consequences of approving the reforms such that France could accept the double majority system to replace weighted voting. The Convention allowed alliances to be built that overlap unlike those of the 15 or 25 separate delegations to the Council in an IGC. Alliances were constructed according to nationality, delegation, or party family. The establishment of the Convention also tied in the European Parliament to accept its outcome.

### **7.5. Conclusion**

This chapter has proved the hypothesis correct that Parliament promotes a broad internal consensus on constitutional issues, in the collective interest of the overwhelming majority of MEPs so that their powers can be increased. A higher degree of consensus exists in Parliament on constitutional issues than on many other policy areas. This consensus has provided Parliament with the *de facto* power to successfully extract many of the concessions that it had been seeking at Amsterdam and Laeken. By the late 1990s, the overwhelming majority for further integration and increases in the power of Parliament had been extended to the Greens, such that the four largest pro-integration groups accounted for 82 percent of the Parliament's membership.

At Amsterdam, Parliament was a winner, even though it expressed disappointment at not having achieved more. The way that Parliament operated its *de facto* powers with regard to co-decision and the appointment of the Commission, led to significant changes being made to these procedures. The federalist content of Parliament's

Institutional Affairs Committee reports also fed through to the agenda of Amsterdam and Nice. Demands of Parliament that were not met nevertheless remained on the agenda as *leftovers* and continued to be pursued during the period leading to Laeken and the establishment of the Convention on the Future of Europe at the end of 2001.

The consensus on constitutional issues can be understood in terms both of internal institutional incentives connected to notions of the *pork barrel*, and external institutional constraints determined by the separation of powers. Concerning the former, MEPs clearly have an incentive to gain office and influence policy outcomes, which will be facilitated by Parliament gaining more power. Regarding the latter, the separation between Parliament and the other multinational and multiparty institutions of the EU influences consensus within Parliament and between Parliament and the other institutions if legislation is to be agreed, as discussed in Chapter 3. However, on constitutional issues, each institution is jealous of its prerogatives and will seek to protect and extend them, for which internal cohesion is indispensable.

Although the existing literature on roll call votes might predict competition more widely, even this refers to a collective gain from constitutional reform for MEPs of all major groups. The findings of this chapter therefore prove that consensus on constitutional issues pervades across ideological traditions and domestic government and opposition status. Support for the collective gain of greater powers is so strong that even the MEPs of governing parties, whose domestic party leaders may be reticent to concede greater powers to the European Parliament, do not depart from this consensus.

## 8. Conclusion

This chapter concludes that the European Parliament is a consensus-based legislature, the collusive behaviour of whose political groups can be explained by path dependence. On the occasions when it occurs, party-based competition is constrained by the Parliament's embedded mechanisms for consensus.

The chapter begins with a summary of the theoretical outline of the research and the conclusions of each of the empirical chapters. This is followed by a discussion of what the theory and empirical conclusions signify for the research question concerning the institutionalisation of consensus and for the challenge to the existing literature that identifies the Parliament as internally competitive. This part concludes with a model to illustrate the high short-term costs of exit from the suboptimal status quo that reinforces its path dependence. The third section of the chapter addresses the significance of these findings in their application to other cases, whether they are new or rapidly changing political systems, divided systems characterised by consociationalism, federalism, or a separation of powers, or emerging supranational systems in the future. The final part of the chapter addresses issues that have not yet been proved, suggesting research for the future, and offering an explanation for occasions when competition *does* emerge in the European Parliament even if the costs are high.

### **8.1. The Findings of the Research**

Refuting the identification of the Parliament as a competitive legislature, chapter 2 presented a theory that consensus in the Parliament is path dependent. Whereas other

research has applied path dependence in a general way to consensus in the political systems of the EU and Switzerland, this research tested it systematically against a specific institution, Europe's Parliament. Successive enlargements to new member states and the increase in the Parliament's institutional powers have reinforced consensual norms, allowing them to become embedded, even if the existing literature otherwise assumes that such developments could undermine consensus. Path dependence is also strengthened by the lack of broad *consensus* that a more competitive alternative would be optimal, as well as the potentially high short-term costs of switching to a supposedly optimal system for its beneficiaries. This path dependent consensus is identified at three levels: the maintenance of legitimacy in a multinational political system; the role of institutional change and changing party balance over time; and the need to reach thresholds to affect policy and access resources. Although limited competition has developed within the consensual mechanisms of the Parliament, of which a symptom is a lack of willingness to logroll between the groups and significant divisions concerning controversial policy areas, the groups have nevertheless observed the strict unwritten rules of proportionality in office distribution. Convergence in voting behaviour, notwithstanding other divisions, has continued to impress the case of the Parliament during disputes with the other institutions.

Chapter 3 was able to identify continuing consensus in roll call votes through both the Parliaments elected in 1994 and 1999, proving hypothesis 1a correct, and challenging assumptions that the Parliament has become more competitive internally. However, there was significant variation according to policy, as well as between different legislative procedures, in accordance with the assumptions behind hypothesis 1b. The consensus in roll call votes is path dependent since no party family

has or is ever likely to have a majority to pass legislation alone in Parliament. When Parliament considers legislation, it has already had to reflect the party balance on both the Commission and Council, and the groups will only be realistically able to make proposals acceptable to the party combinations on the Council. Each of the main political groups has a stake in the legislative system in a way that is not the case in bipolar systems with clear winners and losers. In cases where the Parliament has more power, such as the co-decision procedure after 1999, there is if anything an increase in consensus between the political groups. In these cases, external constraints in the form of the other institutions provide Parliament with an incentive to build internal consensus so that its powers can be maximised.

Despite the Socialists *losing* the battles to secure the election of the Parliament's President in 1999 and 2002, chapter 4 found that consensus and proportionality continued to pertain to the election of Parliament's Vice-Presidents, Quaestors, and committee chairs within and between the political groups. Although the influential group leaders on each committee, or co-ordinators, were selected on the basis of expertise rather than proportionality, this was not sufficient to skew the proportionality between national party delegations within each of the two large groups. Whereas before 1999, the Socialists often had the first pick of which committee chairs they wished to control, after 1999 the EPP was unwilling to logroll with them on that basis. Nevertheless the unwritten rules of proportionality continued to be observed and the Socialists were assigned positions on the basis of the D'Hondt formula. Competition as such takes place only within the Parliament's institutionalised mechanisms of consensus. Where a group or a smaller national delegation is allocated only one *office* of little importance, be it the chair of a minor committee or the role of Quaestor, for example, this has reflected the meagre size of



that group or national party delegation. To the extent that certain national party delegations or, for that matter, some of the smaller political groups were under represented, this was on account of self-exclusion or lack of expertise rather than being a loser in a competitive race. Hypothesis 2a concerning the proportionality of office assignments was therefore correct with regard to:

- containing the major nationalities and parties, a key requirement in seeking legitimacy from the significant national and party-based elites in a Europe of multiple crosscutting cleavages;
- responding to external constraints, in that a broad alliance in Parliament makes a more convincing impression in the game of the separation of powers vis-à-vis the other EU institutions;
- and responding to the internal constraints of Parliament, meaning that parties and political groups have to ally with each other in order to secure office and affect outcomes.

Chapter 5 examined a similar assumption, hypothesis 2b, concerning the proportionality in the assignment of rapporteurs between the groups and national party delegations during two comparative periods: from 1996 to 1998, and following the elections and the reformed co-decision procedure, from 1999 to 2001. This hypothesis was correct in finding that the rapporteur selection process, the distribution of rapporteurs between the parties and groups in proportional terms, and the nature of the tasks of rapporteurs in representing the consensus in Parliament as a whole with regard to the Council and Commission were highly consensual, both before and after 1999. The rapporteur system is an example of the institutionalised mechanisms for consensus that characterise the Parliament. Although they are party politicians, rapporteurs have to be the expression of a broad consensus in order to secure agreement across the political groups for approving controversial legislation and in order to represent the Parliament convincingly during inter-institutional bargaining.

However, when it came to the assignment of rapporteurs between national party delegations within the groups, proportionality did not always apply. As with the case in the assignment of committee co-ordinators between the national party delegations examined in chapter 4, self-selection based on attendance, experience, and expertise account for any distortion in proportionality.

Chapter 6 showed that internal parliamentary consensus usually holds in votes on the appointment of other EU institutions, proving hypothesis 3 correct. The parties in the European Parliament do not choose to compete when their assent or opinions are required for the appointment of other institutions. The Parliament, the Council, and the Commission are all multiparty, multinational institutions, and the sources of potential conflict within and between them are reduced by the potential of the collective loss that would be induced by conflict. In 1999, the more marginal MEPs none of whose transnational affiliations matched those of a single Commissioner totalled less than 14 percent of the Parliament's membership. Consensus has also been reached by choosing to judge nominees for technical competence rather than political affiliation, which makes it easier for appointments to be approved by MEPs, whose domestic parties are in opposition. The motion of censure that led to the eventual resignation of the European Commission led by Jacques Santer caused significant division, although the plurality of the two largest groups nevertheless voted the same way. On this occasion, the proposers of the motion lost control of the process incurring considerable political *cost* for their group and the Parliament as a whole. The maintenance of consensus on institutional appointments is embedded, due to the nature of the separation of powers, the need for party families to coalesce in order to access office connected to policy outcomes, the need to balance multiple crosscutting cleavages in the EU by not excluding significant political tendencies, and the need to

avoid the costs incurred on the occasion of divisions such as those at the beginning of 1999.

Chapter 7 identified overwhelming consensus in the formulation of constitutional policy by the Parliament, proving hypothesis 4 correct. Like other committees, the Constitutional Affairs Committee is a policy outlier, whose membership self-selects. It prepares the constitutional policy of the Parliament in time for IGCs, as well as the Conventions for the Charter of Fundamental Rights and on the Future of Europe. With regard to the preparation of positions on IGCs, the approach of the committee is highly consensual by using the mechanisms of joint reports drawing on co-rapporteurs from different political groups. In general, the plenary sessions of Parliament have followed the lead of the committee by approving its proposals with large majorities that included even the Green Group by the end of the 1990s, and therefore accounted for more than four-fifths of the Parliament's membership. Roll call votes have demonstrated that a higher degree of consensus exists in Parliament on constitutional issues than on most other questions. This hyper-consensual set of outcomes is explained by the separation of powers in which the Parliament finds itself and the prospect of collective gain offered to all the major groups by maintaining a united front. Parliament has obtained further powers, for example at Amsterdam, not just through producing ambitious reports subject to a wide consensus, but also through the practice of successfully insisting that it would not accept attempts by the Council to force through legislation or appointments that it had categorically opposed. The collective interest of MEPs across political tendencies to secure extended powers is consistent with political ambition in wishing to gain more influence over policy outcomes. Further, since each institution wishes to safeguard its powers in the constitutional debate, internal cohesion for the Parliament is indispensable.

## **8.2. Party-Based Competition or Institutionalised Consensus?**

In response to greater institutional powers for the EU and the European Parliament, the political groups have developed a *policy-ideology* approach at the transnational level, for they have become important vehicles for affecting policy outcomes at the European level. This premise, together with quantitative data gathered from roll call votes has led to the formation of a *competitivist school* that has come to view the European Parliament as a legislature increasingly divided between the politics of left versus right. While the competitivist school is influenced by literature on the US Congress whose shared similarities to the European Parliament extend to the separation of powers and a federal system, the Congress is in fact a highly majoritarian institution where losers are clearly identified. The competitivists correctly identify the division between left and right as the most common, however this is only when divisions actually occur. In most votes, the pluralities of the main political groups vote the same way. The evidence presented in the empirical chapters of this thesis has shown that, whether with reference to roll call votes, the assignment of office, the Parliament's powers of appointment, or the Parliament's approach to constitutional questions, the assumptions of the competitivists are mistaken. This thesis has contributed to the literature on legislative behaviour by challenging the conclusions of the competitivists and maintaining that the European Parliament has remained an overwhelmingly consensual institution, a characteristic whose longevity can be explained by path dependence and the suboptimality of a competitive-majoritarian alternative, at least in the short-term.

While the competitivist school has focused on competition in roll call votes, chapter 3 demonstrated that across time periods, procedures, and policy areas, consensus was maintained between the main political groups in the majority of votes. Much of this literature was produced around 1999, when the EPP and Liberal groups formed an alliance to exclude the Socialists from the Presidency of Parliament, a symbolic office-related alliance of the centre-right. However, this went no further than the Presidency itself, and a suspension in logrolling between the two largest groups. Otherwise, proportionality continued to apply across all other positions within Parliament's internal hierarchy, including the powerful committee chairs. The logical application of the theories of the competitivists on ideological competition during roll call votes would extend to competition for committee chairs, in which the Socialists would be the *losing opposition*. This did not occur. Similarly, we would expect the competitivists to predict a party-based competition for the control of rapporteurs who are largely responsible for the content of legislation amended or proposed by Parliament at plenary. However, the rapporteur system is an excellent example of the Parliament's embedded machinery for promoting consensus. As mentioned above, the only skew in the proportionality of their assignment applies to national party delegations with a lack of experience who self-exclude.

A Council of governments, consisting of largely different parties from the parties of domestic opposition, which dominate the European Parliament, nominates the European Commission and other supranational institutions. The same Commission proposes legislation, which, in the view of the competitivists, is subject to competition between left and right in parliamentary votes. As such, the competitivists would logically predict a degree of competition within Parliament on the approval of the Commission. While individual nominees to the Commission have been targeted, the

votes of approval for the Commission from across the centre-left and centre-right in Parliament, whether from governing parties or domestic opposition parties, have been overwhelming, compared to similar votes in any national legislature. This includes even the highly contentious cases of censure motions, in which the pluralities of the two main groups nevertheless continued to vote the same way.

While some of the competitivists recognise that Parliament is capable of forming a consensus if it wishes to bid for a collective gain, the application of their theory on legislative behaviour to constitutional policy, like any other policy area would perhaps *logically* presuppose competition. However, this is one of the areas where Parliament demonstrates maximum consensus, precisely for reasons of collective gain.

Much of the current political science on the legislative behaviour of the European Parliament has focused on roll call votes, including the work of the competitivists, while there has been some limited work on the assignments of office and rapporteurs, the powers of appointment, and Parliament's approach to constitutional questions. However, this thesis has linked these issues in separate empirical chapters, each of which identifies high levels of consensus across the board. While the notion of path dependence is familiar with regard to the EU, this is the first work to apply it specifically to the European Parliament.

Since its foundation, the EEC was a consensual organisation, originally more intergovernmental than supranational. This consensus was embedded in its original structures so that governments could share powers, while delegating some sovereignty to a supranational institution, the Commission, which itself worked by a consensus that was multinational and multiparty. This consensus has remained path dependent, being self-reinforced with each successive enlargement to the EU and increase in institutional powers. As more nationalities and diverse political parties become actors

at the EU level, it is necessary to accommodate these interests as far as possible within the EU institutions, including the Parliament, in order to maximise EU legitimisation across 25 member states. External institutional constraints mean that Parliament has to be prepared to adapt to a rapid succession of institutional changes, while in regard to its more mundane legislative tasks, this multinational, multiparty legislature has to compete against but eventually reach agreement with the other EU institutions, whose multinational and multiparty compositions might be balanced differently. To achieve these ends, division is unhelpful and consensus brings benefits, while satisfying the internal constraints within Parliament that require everybody to get something, in terms of office or policy. These reasons explain the strength of the consensus model and reinforce the path dependence of consensus, however the practice is embedded despite being possibly suboptimal because of the high short-term costs of exit.

It is useful to conclude with consensual and competitive models to illustrate that while a competitive alternative to the consensual status quo may be optimal, consistent with path dependence, it cannot be adopted because of the short-term costs. The models predict which political groups are better or worse off according to consensual or competitive arrangements (Table 8.1). Excluding MEPs who are not members of political groups and therefore have no access to policy influence in terms of bidding points to appoint rapporteurs or any chance to elect committee chairs, let us assume that a consensual model will predict that the percentage of a political group's *power* is equal to its percentage of MEPs. Consequently the power share between the Socialist and EPP Groups was respectively 36.3 and 28.1 percent at the beginning of 1995, when the EU enlarged to Austria, Finland, and Sweden. In 1999, the respective shares of consensual power stood at 30.5 and 39.5 percent. By contrast, a competitive

model predicts what would have happened if a minimum winning coalition of the centre-left groups had formed in 1995, to be supplanted by one of the centre-right in 1999. In 1995, under the competitive model, the PES would have formed a coalition with the ELDR, Green, and ERA groups, reaching a bare overall majority of 320 MEPs out of 624. Assuming that this coalition would have distributed power in proportion to the parliamentary strength of the participating groups to the exclusion of the others, the PES would have had 69 percent of the power, with their allies sharing the remaining 31 percent. The EPP Group would have had zero power. With a relative swing to the centre-right in the 1999 EP elections, a minimum winning centre-right coalition of the EPP, ELDR, UEN, and EDD groups could have been constructed, also reaching a tally of 320 MEPs. The EPP Group would have exercised 72.8 percent of the power, with the remaining 27.2 percent distributed between its hypothetical partners, while the PES would have had zero power as the losing opposition.

By combining the percentages for both 1995 and 1999, to give a power score out of a notional total of 200, we can show that even though the EPP would have been the *losing opposition* in 1995 under a competitive arrangement, while this fate would have awaited the PES in 1999, there is a small gain in power for both groups. The competitive power score for the EPP is 72.8, while that of the Socialists is 69.0. These compare with respective consensual scores over the combined periods of 67.6 and 66.8. The only group present in both Parliaments that makes a significant gain from competitive arrangements is the pivotal ELDR, which has the weight to decide which of the two possible coalitions will form. Because they are involved in both possible coalitions, the power share of the Liberals is 31.9 under the competitive arrangements, compared to 17.1 under consensual arrangements.



**Table 8.1: Consensual and competitive models of the distribution of power in the European Parliaments of 1994 and 1999**

		EUL	Greens	PES	ERA	ELDR	EPP	EDA-UEN	FE	IEN-EDD	NA	Total	Vacant
1995	MEPs	30	26	221	21	52	171	27	28	31	17	624	2
	Consensual % power	4.9	4.3	36.3	3.5	8.6	28.1	4.4	4.6	5.1	0	100	-
	Competitive % power	0	8.1	69.0	6.6	16.3	0	0	0	0	0	100	-
1999	MEPs	42	48	180	-	50	233	21	-	16	35	625	1
	Consensual % power	7.1	8.1	30.5	-	8.5	39.5	3.6	-	2.7	0	100	-
	Competitive % power	0	0	0	-	15.6	72.8	6.6	-	5.0	0	100	-
Power 1995 and 1999 combined	Consensual	12.0	12.4	66.8	3.5	17.1	67.6	8.0	4.6	7.8	0	200	-
	Competitive	0	8.1	69.0	6.6	31.9	72.8	6.6	0	5.0	0	200	-

*The figures for the 1994 Parliament are taken from January 1995 when the first MEPs from Austria, Finland, and Sweden took their seats. Both the "consensual" and "competitive" shares of power are set at zero for the non-attached (NA) MEPs, who were not entitled to the usual privileges allocated to political groups. In 1995, a competitive centre-left coalition of the PES, ELDR, Green, and ERA groups would have had a majority of 320 MEPs. In 1999, a competitive centre-right coalition of the EPP, ELDR, UEN, and EDD groups would have also had a majority of 320 MEPs.*

As applied to consensus and competition in the European Parliament, path dependence assumes that bipolar competition between left and right is the optimum arrangement. Competition would be more transparent and easier to understand for citizens who are familiar with bipolar systems, which would be a collective institutional gain for the Parliament in terms of enhancing visibility and legitimacy. Competition would also give more power to the two largest groups so long as each were certain of being able to lead a centre-left or centre-right coalition for at least half of the time, as demonstrated in the competitive model above. Meanwhile the third largest and most pivotal of the groups would benefit from a significant increase in power. So why does the suboptimal, path dependent status quo of consensus persist?

Only the small ELDR gains significantly in terms of increased power share from a competitive system. The gain for the two largest groups is relatively small, assuming that one of them would always be in *opposition* under such an arrangement. For either group, the risk of being excluded from policy influence for one or even more parliamentary terms is a very high short-term cost, which makes consensus path dependent.

\* \* \*

Since the Single European Act, and more particularly since Maastricht, the European Parliament has been an interesting institution in which to test assumptions concerning legislative behaviour, consensus, and path dependence. This is because its institutional development has been extremely rapid in a short space of time, while there has also been change in partisan composition with regard to the other institutions with which it needs to coalesce. Given this background and the fact the politicians in the Parliament have all been socialised within the largely bipolar competitive domestic political systems of the member states, the prevalence of overwhelming consensus in the Parliament is remarkable.

### **8.3. Significance and Application of the Findings**

While many of the findings of this thesis are of interest in their own right with regard to our understanding of EU politics and policy, their significance is that they can also be applied to other cases. The questions of consensus and path dependence were in part inspired by some existing assumptions on the EU and Switzerland that

had not been empirically tested in any systematic way. The approach pursued in this thesis, using the European Parliament, can be applied to:

- other new or rapidly changing political systems;
- systems characterised by consociationalism, federalism, or divided government or separation of powers;
- emerging intergovernmental or supranational systems, whose foundation may mirror that of European integration

The EU is a rapidly changing, multinational, multiparty political system, characterised by decentralised federalism, a separation of powers, a collegiate executive, and oversized majorities. However, the methods pursued here could also be applied to systems that do not reflect all the characteristics of the EU. Since 1989, new political systems have come into place in Central and Eastern Europe, while Italy has undergone a radical political re-alignment. The process of democratisation and new institutions in Central and Eastern Europe had also applied to numerous states in the developing world, namely in Latin America. Unless they are executive-dominated parliamentary systems in unitary states that do not have multiple crosscutting cleavages and are exclusively bipolar, there are elements of the approach used in this research that will be relevant in other contexts.

In terms of adapting elements of the research to consociational, federal, or divided government systems, Switzerland, which has already been discussed in this thesis, provides the best fit. However, Belgium and Austria are both consociational federations. Federalism and a partial separation of powers exist in Germany, where the federal executive is excluded from the Bundesrat, which is composed of ministers from the federal states, just like the Council of the EU. While federalism and divided government exist to varying degrees in the United States and in Latin America, it

takes a majoritarian format unlike in the EU system. All of these cases have certain elements in common with the EU and could be appropriate laboratories for applying some of the findings revealed in this research.

Despite its similarities to Switzerland, the EU was originally an intergovernmental trading bloc, though with some supranational characteristics. The third kind of system against which some of the findings of this thesis could be applied are other emerging intergovernmental trade blocs, particularly if they attempt to develop supranational institutions. Mercosur in Latin America is a good example of such an organisation, although it lacks a supranational assembly of national parliamentarians, such as the forerunner of the European Parliament in the ECSC of 1953. The member states of Mercosur are all majoritarian presidential regimes with divided government, while some of them are also federal systems. Other trade blocs with *federalist* aspirations have been attempted elsewhere in the world, but a federal Mercosur would be a fascinating comparative case, according to whether the majoritarian characteristics of its member states or an EU-style supranational consensus should prevail.

#### **8.4. Future Research on the Institutionalisation of Consensus**

This thesis has answered some questions, but raised new ones. What still needs to be done? While the previous section has set out some wider questions about other political systems and the possible applicability of the findings in this thesis to those cases, other questions about the EU and the nature of consensus will need to be addressed.

The time period examined in this thesis finishes in January 2002. However, in the summer of 2004, the Italian government and the President-designate of the

Commission, José Manuel Barroso, nominated Rocco Buttiglione as Vice-President of the Commission, with the portfolio of Justice and Home Affairs. A bare majority of MEPs from the secular political groups of the left and centre made it clear that he was an unacceptable candidate in view of his opinions on the role of women and rights of homosexuals. Having calculated almost certain defeat, Barroso withdrew his team from the vote of approval by the Parliament. The Buttiglione question was a highly divisive, if symbolic, issue. This case may have been the exception to prove the consensual rule, although the *costs* of institutional embarrassment were minimised by avoiding a vote. Nevertheless the division between the EPP and UEN groups on one side and the centre and the left on the other was very real. Future research on consensus in the European Parliament would need to explain the *irrational* lose-lose situation that arises on the rare occasions of a significant division. The attempt by the Socialists to use a motion of censure as a surrogate vote of no confidence in the Santer Commission in 1999 was counterproductive, and it is likely that the politicians wished to avoid a showdown with similar consequences in the Buttiglione case, which is why there was no vote. However, the question remains as to why Barroso, the Council, or the EPP Group did not concede earlier in order to avoid such a costly escalation. Future research could devise a theory to identify the preconditions for repetitions of divisive cases like that of Buttiglione.

Another area of future research concerns the role of conflict or consensus in the Council's relationship with the Parliament. There is some work on the acceptance or rejection of parliamentary amendments to legislation by the Council and other work on roll call votes in the Council itself. The scope of further research in this field could be to measure whether roll call voting by governments, particularly dissenting governments in a losing minority on Council, is assiduously copied by MEPs from the

same national governing parties, matching the roll call votes in Council with those in Parliament.

A third and final gap that needs to be filled concerns the literature on legitimacy in the EU. Political discourse on EU legitimacy calls for the European Parliament to elect the Commission, a familiar clarion call from politicians during the Convention on the Future of Europe. Those who propose this measure consider that it would increase turnout in European Parliament elections, making them more interesting and legitimate, because their results would lead to the formation of the new Commission, in a similar way to a national government. However, they do not consider the costs of a more competitive partisan dynamic and the legitimacy problems of creating losers in a competitive election for the Commission via the European Parliament, particularly if the losers include otherwise powerful national governments. The call for the consensual or collusive system in the European Parliament to be replaced with a national style, competitive, two-party system reveals more about the political socialisation in national bipolar systems of its supporters than anything else. However, the debate about making the Parliament and the selection procedure for the Commission more competitive is substantial. Drawing on some of the findings in this thesis about the durability of consensus in the European Parliament, an important area for further research will be to model the consequences for stability and legitimacy of politicising the election of the Commission by the Parliament and of attempting to construct bipolar competition within Parliament itself. However, with regard to the latter proposition, it is likely that the path dependence of consensus is sufficiently strong to resist external pressure to conform to a bipolar model more familiar to national politicians.

## Appendix: Descriptive Statistics

**Table A1: Distribution of co-ordinators  
within the EPP Group, 1994-2002**

Delegation	State	1994		1997		1999		2002	
		MEPs	C*	MEPs	C	MEPs	C	MEPs	C
CDU-CSU	D	47	8	47	9	53	7	53	4
CCD-CDU	I	-	-	4	0	5	0	5	0
CDA	NL	10	3	9	1	9	2	9	2
Conservatives	GB	18	2	18	3	36	3	35	3
CVP-PSC-CSP	B	7	1	7	1	6	0	6	0
Fine Gael	IRL	4	0	4	0	4	0	4	0
Forza Italia	I	-	-	-	-	22	0	23	0
KDS	S	-	-	-	-	2	0	2	0
KF	DK	3	0	3	0	1	0	1	0
KOK	FIN	-	-	4	0	4	0	4	0
Moderaterna	S	-	-	5	0	5	0	5	0
ND	EL	9	1	9	1	9	0	9	2
ÖVP	A	-	-	7	0	7	1	7	2
Partido Popular	E	28	4	28	5	27	4	27	4
PCS	L	2	0	2	1	2	0	2	0
PPI-Segni-SVP	I	12	0	11	0	7	0	7	0
PSD	P	-	-	9	0	9	0	9	0
RPR	F	-	-	-	-	12	0	11	0
Scallan	IRL	-	-	-	-	1	0	1	0
SKL	FIN	-	-	-	-	1	0	1	0
UDC	E	1	0	1	0	1	0	1	0
UDF	F	13	1	13	0	9	0	9	1
UUP	NI	1	0			1	0	1	0
<b>TOTAL</b>		<b>155</b>	<b>20</b>	<b>181</b>	<b>20</b>	<b>233</b>	<b>17</b>	<b>232</b>	<b>18</b>

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\* C denotes the number of co-ordinators

**Table A2: Distribution of co-ordinators  
within the PES Group, 1994-2002**

		1994		1997		1999		2002	
Delegation	State	MEPs	C	MEPs	C	MEPs	C	MEPs	C
Labour	GB	63	8	63	8	29	6	28	6
Labour	IRL	1	0	1	0	1	1	1	1
PASOK	EL	10	0	10	0	9	0	9	0
PDS-SI	I	19	2	19	4	16	0	15	0
POSL	L	2	0	2	0	2	1	2	1
PS	F	16	1	15	0	22	0	22	1
PS	P	10	1	10	0	12	0	12	0
PS-SP	B	6	1	6	0	5	0	5	0
PSOE	E	21	0	21	0	24	4	24	4
PvdA	NL	8	1	7	1	6	1	6	0
S	DK	4	0	4	0	3	0	2	0
SAP	S	-	-	7	0	7	0	7	0
SDLP	NI	1	0	1	0	1	0	1	0
SDP	FIN	-	-	6	0	3	0	3	0
SPD	D	40	6	40	7	33	4	35	4
SPÖ	A	-	-	4	0	7	0	7	0
TOTAL		201	20	216	20	180	17	179	17



**Table A3: Distribution of office\* within the PES and EPP groups by national party delegation, 1994 and 1997**

	1994		1997		NOMINATE scores	
	MEPs	Offices	MEPs	Offices	Left-Right	Pro or Anti
Labour	63	14	63	13	0.063	0.070
Irish Labour	1	0	1	0	0.065	0.153
PASOK	10	1	10	1	0.043	0.137
PDS-SI	19	4	19	6	0.042	0.094
POSL	2	1	2	1	0.046	0.166
PS (F)	16	3	15	2	0.080	0.254
PS (P)	10	3	10	1	0.028	0.034
PS-SP (B)	6	1	6	0	0.058	0.175
PSOE	21	2	21	2	0.057	0.042
PvdA	8	1	7	2	0.079	0.067
S	4	0	4	0	0.027	0.226
SAP	-	-	7	0	0.032	0.127
SDLP	1	0	1	0	0.005	0.059
SDP	-	-	4	1	0.015	0.089
SPD	40	9	40	9	0.000	0.057
SPÖ	-	-	6	0	0.005	0.102
CDA	10	4	10	2	0.027	0.023
CCD-CDU	-	-	4	1	0.086	0.346
CDU-CSU	46	12	46	13	0.027	0.127
Conservatives	18	3	18	4	0.059	0.077
CVP-PSC-CSP	7	2	7	1	0.025	0.075
Fine Gael	4	0	4	0	0.037	0.003
KF	3	1	3	0	0.001	0.077
KOK	-	-	4	0	0.016	0.128
Moderaterna	-	-	5	0	0.056	0.126
ND	9	2	9	2	0.016	0.001
ÖVP	-	-	7	0	0.031	0.076
Partido Popular	28	7	28	9	0.001	0.068
PCS	2	0	2	1	0.022	0.020
PPI-Segni-SVP	12	1	11	0	0.052	0.019
PSD	-	-	9	1	0.130	0.324
UDC (E)	1	0	1	0	0.506	0.532
UDF	13	3	13	1	0.027	0.339
UUP	1	0	-	-	0.119	0.868

*Correlation of office to national party delegation: 0.955*

\* Group leader, President, Vice-Presidents and Quaestors of Parliament, committee chairs, group co-ordinators on committees.

**Table A4: Distribution of office within the PES and EPP Groups  
by national party delegation, 1999 and 2002**

	1999		2002		NOMINATE scores	
	MEPs	Offices	MEPs	Offices	Left-Right Pro or	Anti
Labour	29	9	28	8	0.063	0.184
Irish Labour	1	1	1	1	0.033	0.029
PASOK	9	0	9	1	0.045	0.047
PDS-SI	17	2	16	2	0.020	0.067
POSL	2	2	2	2	0.096	0.288
PS (F)	22	2	22	2	0.070	0.145
PS (P)	12	1	12	0	0.011	0.047
PS-SP (B)	5	2	5	0	0.067	0.139
PSOE	24	7	24	6	0.016	0.280
PvdA	6	0	6	0	0.002	0.017
S	3	0	2	0	0.037	0.372
SAP	6	1	6	0	0.038	0.259
SDLP	1	0	1	0	0.035	0.068
SDP	3	0	3	0	0.008	0.038
SPD	33	6	35	6	0.003	0.116
SPÖ	7	0	7	0	0.007	0.085
CDU-CSU	53	12	53	12	0.013	0.085
CCD-CDU	4	1	4	1	0.032	0.076
CDA	9	2	9	2	0.110	0.084
Conservatives	36	5	35	6	0.321	0.468
CVP-PSC-CSP	6	0	6	0	0.190	0.087
Fine Gael	4	1	4	1	0.119	0.090
Forza Italia	22	2	22	2	0.049	0.089
KDS	2	0	2	0	0.381	0.150
KF	1	0	1	0	0.023	0.117
KOK	4	0	4	0	0.029	0.022
Moderaterna	5	0	5	1	0.050	0.085
ND	9	1	9	1	0.076	0.070
ÖVP	7	0	7	1	0.078	0.099
Pensionati	1	0	1	0	0.092	0.046
Partido Popular	27	7	27	6	0.058	0.170
PCS	2	0	2	0	0.076	0.009
PPI-RI-SVP-Udeur	7	0	7	0	0.160	0.081
PSD	9	1	9	1	0.056	0.073
RPR	12	0	11	1	0.038	0.077
Scallan	1	0	1	0	0.034	0.233
SKL	1	0	1	0	0.181	0.019
UDC (E)	1	0	1	0	0.218	0.087
UDF	9	1	9	0	0.118	0.102
UUP	1	0	1	0	0.362	0.418

*Correlation of office to national party delegation: 0.910*

**Table A5: Distribution of rapporteurs by political group, member state, and national party delegation**

	MEPs 1996-1998	All Reports 1996-1998	Ratio, 1996-1998	MEPs 1999-2001	All Reports 1999-2001	Ratio, 1999-2001	Co-decision Reports 1996-1998 and 1999-2001	Ratio, Co-decision Reports
Germany	99	212	2.14	99	186	1.88	82	0.41
Great Britain	87	176	2.02	87	154	1.77	57	0.33
France	87	126	1.45	87	64	0.74	19	0.11
Italy	87	105	1.21	87	81	0.93	25	0.14
Spain	64	126	1.97	64	124	1.94	37	0.29
EPP	181	361	1.99	233	389	1.67	139	0.34
PES	216	375	1.74	180	310	1.72	120	0.30
ELDR	38	72	1.89	51	80	1.57	25	0.28
Greens	27	47	1.74	48	84	1.75	34	0.45
EUL	33	37	1.12	42	38	0.90	8	0.11
UPE-UEN	59	77	1.31	30	25	0.83	8	0.09
IEN-EDD	15	31	2.07	16	2	0.13	6	0.19
CDU-CSU	47	107	2.28	53	116	2.19	49	0.49
SPD	40	84	2.10	33	56	1.70	25	0.34
Cons	18	54	3.00	36	64	1.78	15	0.28
Labour	62	112	1.81	29	50	1.72	37	0.41
RPR	17	25	1.47	12	5	0.42	3	0.10
PS (F)	15	14	0.93	22	33	1.50	8	0.22
Forza-UDC	25	32	1.28	25	21	0.84	15	0.30
DS-SDI	19	34	1.79	16	25	1.56	4	0.11
PP	29	54	1.86	28	60	2.14	18	0.32
PSOE	21	42	2.00	24	46	1.92	14	0.31

*Correlation coefficient (all reports to MEPs for both 1996-1998 and 1999-2001): 0.948*

*Source: OEIL, the legislative observatory of the European Parliament.*

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## **Interviews**

Nuala Ahern MEP, Irish Green Party, Green Co-ordinator on the Industry, Trade, Research, and Energy Committee and Former Rapporteur on SAVE II, January 2001.

Alexander Beels, Deputy Secretary-General, ELDR Group, Brussels, March 2000

David Bostock, Candidate to the Court of Auditors, London, October 2001

Richard Corbett MEP, Labour Party, PES Group Co-ordinator on the Constitutional Affairs Committee, January 2001

Proinsias De Rossa MEP/TD, Irish Labour Party, PES Co-ordinator on the Petitions Committee and Spokesperson on the Ombudsman, Brussels, March 2000.

Andrew Duff MEP, British Liberal Democrat, ELDR Group Co-ordinator on the Constitutional Affairs Committee, and Member of the Conventions on Fundamental Rights and the Future of Europe, March 2000 and January 2001

Michael Elliott, ex-MEP, Labour, Former Rapporteur on SOCRATES 1994-1995 and Member of the Culture Committee, London, August 2001.

Roberto Galtieri, official of the EUL (Radical Left) Group, Brussels, January 2001

Jan Johansson, Swedish Left Party, official in the EUL (Radical Left) Group, January 2001.

Maria-José Martinez-Iglesias, official in the Secretariat of AFCE, Brussels, January 2001

Pierre Monzani, Deputy Secretary-General of the *Rassemblement pour la France* and Deputy Secretary-General of the UEN Group, Brussels, January 2001

Official of the PES Group, Brussels, March 2000

Petra Prossliner, official of the Green Group, Brussels, January 2001

James Temple, official of the EPP Group, Brussels, March 2000

Eurig Wyn MEP, Plaid Cymru, Greens/European Free Alliance Group, Brussels, March 2000