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FAR BEYOND THE TREATIES' CLAUSES: THE EUROPEAN PARLIAMENT'S GAIN IN POWER, 1952-1979

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Abstract

The European Parliament (EP) can be considered the boldest advocate for ever more European integration. Its members (MEPs) have been pushing for broad Community competences in economic, social and financial policy matters from the EP's first years of existence – a time in which member states struggled to agree on mere political rapprochement in major parts of the above-mentioned areas, and also a time in which the EP had, according to the Communities' founding treaties, few parliamentary powers. This paper aims to show that despite the minor role assigned to it by the treaties, the EP developed into a *de facto* co-legislator long before the Single European Act (SEA), the Treaties of Maastricht and Amsterdam, being able to amend Council regulations and directives, and exercising a certain level of control not only over the Commission, but also the Council through non-binding instruments such as questions, which both institutions regularly answered. Different strategies will be assessed through which the MEPs aimed to gain more parliamentary power. Based on these analyses, the paper seeks to refute dominant theories of the EP as a fairly powerless talking shop prior to its first direct elections in 1979, demonstrating that treaty basis and political reality differed remarkably.

Keywords: *European Parliament, social policy, European Communities, legislative procedures, European integration, supranational activism*

Introduction

The European Parliament (EP) was one of the first institutions of the European Communities, alongside Council, Commission (respectively High Authority) and European Court of Justice. Among these four, no institution changed as much, or as swiftly, as the EP.¹ This change was based, on the one hand, on a very narrow Treaty basis of provisions for the early EP, giving it few more tasks than the control of the initially fairly technocratic High Authority of the European Coal and Steel Community (ECSC), and thus leaving much room for upward development. On the other hand, the change was built on the strongly pro-integrationist conviction and the resulting self-confident behaviour of the first Members of the EP (MEPs). This paper shows how, accompanied by the goodwill of the Commission and gradual acceptance of the Council, the MEPs defined the powers and tasks of their institution through mainly self-initiated supranational activism, turning the EP into an effective supranational co-legislator even before its members were for the first time directly elected in June 1979.

¹ Cf. Gfeller et al. (2011): 5.

The paper seeks to refute dominant theories of the EP as a fairly powerless talking shop prior to 1979, demonstrating that treaty basis and political reality differed remarkably. It is based mainly on EP documents from the period 1952-1979, as well as secondary literature on the EP, a considerable part of which is from before or around 1979 – mainly because the majority of academic publications concerning the EP from the 1980s onwards have chosen to give little attention to the officially rather weak institution. However, the EP's contemporary role, as well as its swift gain in power (a still ongoing process), can only be understood if looking at its roots – which were fostered much more by the early MEPs than by treaties, legal acts and inter-institutional agreements. Indeed, this paper will present several cases in which such legal acts and agreements merely formalised evolved practices, rather than establishing them. Thus, the paper aims to offer proof for the underlying hypothesis that the pre-1979 EP's power cannot, and must indeed not, be measured by Treaty provisions; instead, aside from the founding Treaties, the formal increase of power mostly followed a previous informal establishment of habits.

Methodological approach

This paper analyses the political activity of the EP as a whole, as well as of single MEPs, in case their individual actions had consequences for the EP's institutional development. Particular attention will be paid to the EP's action in the field of social policy: from the beginning, social policy had a very particular standing in the European integration process. On the one hand, Euro-federalists especially regarded it from the 1950s on as a crucial area of common policy-making in order to reach an *ever closer union*, which had as one major aim to improve the living and working conditions of all member states' citizens, as stated in all the founding Treaties.² On the other hand, all member states' governments except Italy's – the country with the highest unemployment and lowest level of education, particularly in its southern regions – showed reluctance in transferring national sovereignty over socio-political decision-making to the Community level.³ Being thus a political area that triggered highly emotional debates, social policy offers particularly clear insight into different concepts of how to further integration – a division that can be simplified as being between the Council (dominating intergovernmental approach) and the EP (dominating supranational, partly Euro-federalist approach); as well as among different interest groups within the different institutions. Debates on socio-political issues were also highly controversial because of the rather thin Treaty basis. The limited Community competences invited EP intervention in a very particular manner, from an institutional point of view: the founding Treaties provided only a few tasks for the EP, as will be outlined later – mainly non-binding consultation, on a limited number of policy areas. A common social policy, only vaguely defined in the Treaties, to potentially be developed later on, allowed the EP to define its own role in this

² Cf. Art. 2 ECSC, Art. 2 EEC, and Art. 1 Euratom.

³ Cf., amongst others, Varsori (2010); Rye (2006).

emerging field of Community action. The paper will show how the EP positioned itself prior to its first direct elections as effective co-legislator in a policy area based on very few Treaty provisions, by going beyond what the Treaties provided for the EP. In other words: the EP used a thinly defined policy area in order to strengthen its own thinly defined role in the Community's institutional framework, as both offered a lot of room for development. Additionally, the EP seemingly chose socio-political issues to demonstrate its self-perception as representative of the Community's citizens, thus aiming not only at influencing Community policy and legislation, but also at strengthening its own image, within the Community's institutional system as well as in the eyes of the citizens.

The paper is based on a comprehensive collection of EP documents on social policy, consisting of ca. 3,500 documents, available at the Historical Archives of the European Parliament in Luxembourg. For this research project, mainly those document types that were adopted and published will be taken into consideration: i.e. resolutions, reports, and parliamentary questions (both written and oral, the latter also including questions in the EP Question Time, introduced in 1973). Their analysis will show the different tools and procedures the MEPs chose in order to influence Community legislation: resolutions and reports often included concrete amendments to Commission proposals to the Council. The EP issued such amendments both in consequence of Commission or Council consultation, and on its own initiative. In combination with Commission drafts and legislation adopted by the Council, these EP resolutions and reports will show how successful the EP was in changing Community legislation despite it having no official mandate to do so. The analysis of parliamentary questions, as well as of EP resolutions with no connection to a particular Commission proposal, offers an insight into the MEPs' attempts at agenda-setting in cases where either no Community action was provided, or where the MEPs were dissatisfied with the speed and extent of ongoing legislative procedures.

In order to understand the EP's swift rise in power, this paper will also assess the institution's internal developments, with an eye on its self-given Rules of Procedure, and on EP plenary debates. Only when understanding the self-conception shared by most of the pre-1979 MEPs can the EP's action within the Community's institutional framework and its legislative procedures be meaningfully analysed. This paper does not name every single relevant EP document based on which conclusions are drawn – in order to illustrate this paper's analyses, only some particularly typical and significant examples are indicated. After consulting all ca. 3,500 documents compiled for this research, a number of such examples was chosen that stands representatively for the developments described and analysed in this article.

The development of the European Parliament's powers and rights: the beginnings

The document initiating the European Coal and Steel Community, the Schuman Plan of 9 May 1950, made no mention of a supranational parliamentary body.⁴ In the negotiations preceding the Treaty of Paris,⁵ which founded the ECSC, the national delegations agreed on such an institution only at the very end.⁶ It was certainly not intended to have the powers of a fully-fledged parliament, but had the main task of controlling the otherwise too powerful and unchecked High Authority. Thus, the most important power the Treaty of Paris, signed on 18 April 1951, assigned to that institution was the ability to dismiss the High Authority (Art. 24 ECSC). According to that Treaty, the institution was not called a parliament, but the Common Assembly of the ECSC. It was to meet once a year, in order to discuss the High Authority's annual report, and to decide consequently whether it agreed with the High Authority's action or not, with the option of a motion of censure. Besides the power to dismiss the High Authority, the Common Assembly received few responsibilities through the Paris Treaty. It was allowed to put questions to the High Authority, either orally or written, which the latter was obliged to answer (Art. 23 ECSC). And it was allowed to set its own Rules of Procedure (Art. 25 ECSC). Both rights would prove crucial in the later EP's struggle for a more influential role.

As important as its rights were the tasks the Treaty did *not* provide for the Common Assembly: it had no control over the Council – although it is important to keep in mind that under the Paris Treaty, the Council was less powerful than the High Authority. In addition, there was no mention of consultation⁷ – the Common Assembly was not to be involved in Community legislation at all. This was also obvious in the provision of only one plenary meeting per year (Art. 22 ECSC), with the sole reason to discuss the High Authority's annual report. In terms of the Assembly's composition, the Treaty left it open to the member states to assemble their national representations: either by delegation through the national parliaments, or via direct elections (Art. 21 ECSC). Until 1979, all member states' parliaments sent delegations, based on individually chosen procedures, which led to an uneven representation of the existing party landscapes in the different countries. Only in the

⁴ Cf. declaration of Robert Schuman in Paris, 9 May 1950 (http://www.cvce.eu/en/recherche/unit-content/-/unit/5cc6b004-33b7-4e44-b6db-f5f9e6c01023/141a459f-ccc8-4472-8055-4222724eb1b6/Resources#9cc6ac38-32f5-4c0a-a337-9a8ae4d5740f_fr&overlay, visited on 21 June 2016).

⁵ Cf. *Traité instituant la Communauté européenne du charbon et de l'acier* (http://www.cvce.eu/en/obj/traite_instituant_la_communaute_europeenne_du_charbon_et_de_l_acier_paris_18_avril_1951-fr-11a21305-941e-49d7-a171-ed5be548cd58.html, visited on 21 June 2016).

⁶ Cf. Thiemeyer (2001).

⁷ The only passage in the Treaty that could be understood as a right to consultation (though without any dimension of legal influence) is Art. 22 ECSC, calling the Assembly to give its opinion were the Council to put a question to it. However, the Treaty of Paris does not connect consultation of the Assembly to any particular policy area or subject.

1970s did the member states agree to let the Community's citizens decide on their MEPs by direct universal suffrage.⁸

The Treaties of Rome of 25 March 1957, founding the European Economic Community (EEC)⁹ and the European Atomic Energy Community (Euratom),¹⁰ slightly increased the Assembly's powers. First and foremost, the Council and Commission were now called to consult the Assembly in several – though not all – policy fields. However, the Assembly's opinion had no legally binding character – proposals could be adopted unchanged, no matter how harshly the Assembly criticised them. The Assembly's only leverage lay in the remaining right to dismiss the executive – now extended from the ECSC's High Authority to the EEC and Euratom Commissions (Art. 144 EEC, Art. 114 Euratom).¹¹ This control power was also slightly extended in scope: under the ECSC Treaty, a motion of censure could only follow the Assembly's debate of the High Authority's annual report; hence the Assembly could dismiss the High Authority only on one occasion per year. The Treaties of Rome allowed the Assembly to do so at any given point.¹² Directly after the Treaties of Rome entered into force, the Assembly attempted to introduce an equivalent procedure for the Council, calling for a 'motion disapproving the Council's policies'.¹³ The Council, however, refused, so this possibility of scrutiny never became more than parliamentary wishful thinking.

With the Treaties of Rome, the Assembly's right to put questions to the High Authority was extended to the two new Commissions (Art. 140 EEC, Art. 110 Euratom). With Art. 122 EEC, the Assembly gained a very vague right of initiative in the field of social policy: it could invite the EEC Commission to draw up reports on specific social problems. In terms of the Assembly's image, the behaviour of its members as Euro-parliamentarians from the early 1950s bore fruit in a change of the institution's title: with the Treaties of Rome, it became the *Parliamentary* Assembly of the European Communities. Additionally, although the members were still

⁸ Cf. Act concerning the election of the representatives of the Assembly by direct universal suffrage, 20 September 1976 (http://www.cvce.eu/content/publication/1999/1/1/726617cf-e362-4f7f-bee7-e5196fc39c87/publishable_en.pdf, visited on 21 June 2016).

⁹ Cf. Traité instituant la Communauté économique européenne (http://www.cvce.eu/en/obj/trait%C3%A9_instituant_la_communaute_economique_europeenne_rome_25_mars_1957-fr-cca6ba28-0bf3-4ce6-8a76-6b0b3252696e.html, visited on 21 June 2016).

¹⁰ Cf. Traité instituant la Communauté européenne de l'énergie atomique (http://www.cvce.eu/en/obj/trait%C3%A9_instituant_la_communaute_europeenne_de_l_energie_atomique_rome_25_mars_1957-fr-a3390764-3e75-421b-9c85-f52de5a14c2f.html, visited on 21 June 2016).

¹¹ The three executives merged in 1967, based on the Merger Treaty of 8 April 1965, to the European Commission; also the three Councils merged into one. Cf. Traité instituant un Conseil unique et une Commission unique des Communautés européennes (http://www.cvce.eu/en/obj/trait%C3%A9_instituant_un_conseil_unique_et_une_commission_unique_des_communautes_europeennes_8_avril_1965-fr-be427f35-bee6-4872-9afa-e9602d628aea.html, visited on 21 June 2016).

¹² Only from the Merger Treaty (signed 1965) on, which merged the High Authority and the EEC and Euratom Commissions into one Commission of the European Communities, as well as the three Councils into one, the EP could dismiss the entire executive at any given point. Until then, the ECSC Treaty's restricting provisions still applied for the relations between the High Authority and the EP. The Merger Treaty thus slightly enhanced the EP's powers in the Communities' institutional framework.

¹³ Cf. Stein (1959): 244 seq.

delegated by national parliaments, the Treaties gave the Assembly the task to draw up proposals for its direct election (Art. 138 EEC, Art. 108 Euratom). Thus, the Treaties acknowledged a considerably more parliamentary character of the Assembly than the ECSC Treaty had done a mere six years earlier.

Although no Treaty article deprived the Assembly of any previously granted right, the institution effectively lost influence with the Treaties of Rome: in both the EEC and the Euratom, the role of the Council was strengthened, while the two Commissions had considerably less power than the ECSC's High Authority. Decision-making power no longer lay primarily with the executive, but the member states' ministers, meeting in the different Councils. At the same time, the Assembly's influence over the Councils did not increase. The right to dismiss the High Authority and the Commissions thus lost some of its significance.

Until the EP's first direct elections in 1979, the institution's treaty-based role was only enhanced by the two budgetary treaties of 1970 and 1975,¹⁴ giving the EP the power to dismiss the Community budget, and introducing the conciliation procedure. While especially the conciliation procedure became a crucial tool for the EP to strengthen its role as co-legislator from the 1980s onwards,¹⁵ the two budgetary treaties did not have much relevance for the EP's action examined in this paper. Hence, they will not be further analysed here.

How the MEPs' behaviour shaped the European Parliament

The Treaties of Paris and Rome might leave the impression of the pre-1979 EP¹⁶ being a mere talking shop that, based on its fairly limited powers, played no significant role in the Community legislative process. This misconception has led many academics to bypass the pre-1979 EP, and only take it into consideration from the mid-1980s onwards when the Single European Act, and then the Treaties of

¹⁴ Cf. Treaties amending certain budgetary provisions, 22 April 1970

(http://www.cvce.eu/en/obj/treaty_amending_certain_budgetary_provisions_22_april_1970-en-93a76f6b-b740-40f0-8b30-2c7c25fa625d.html, visited on 21 June 2016), and 22 July 1975

(http://www.cvce.eu/en/obj/treaty_amending_certain_financial_provisions_22_july_1975-en-bd96621d-f5e8-4b9f-9785-c5bd0f0cfed4.html, visited on 21 June 2016).

¹⁵ Cf., amongst others, Grabitz et al. (1988), Bourguignon-Wittke et al. (1985). One of the first examples of the EP's usage of this procedure is the Resolution embodying the opinion of the European Parliament on the communication from the Commission of the European Communities to the Council on the review of the rules governing the tasks and operations of the European Social Fund, adopted on 12 May 1977 (PE0_AP_RP!ASOC.1976_A0-0084!770001EN_0001), which states: '14. Agrees with the Commission that the nature of its proposals is such that if the Council intends to depart from the opinion of the European Parliament it will be necessary to open a conciliation procedure with the European Parliament'.

¹⁶ From here on, for the sake of a better reading flow, this paper will always speak about the EP/the European Parliament, no matter whether referring to the Common Assembly of the European Coal and Steel Community (1952-1958), the Parliamentary Assembly of the European Communities (1958-1962), or the European Parliament (1962 until today – though the Council officially accepted that name only with the Single European Act of 1986, despite occasionally referring to the EP as 'European Parliament' from the 1970s on).

Maastricht and Amsterdam granted it considerably more legislative power.¹⁷ This paper aims to show, however, that it is crucial not to regard the EP as the sum of Treaty articles dedicated to it, but to assess it based on the sum of its actions.

From the 1950s on, the early MEPs understood their role as being Euro-parliamentarians, instead of being members of a technocratic control institution. This is visible in a number of actions: first and foremost, the MEPs decided to give their institution the structure of a real parliament. In January 1953, seven committees were established, each with a specific political responsibility, allowing the EP to prepare and debate issues more effectively.¹⁸ In June 1953, the EP adopted a resolution¹⁹ that added a sub-chapter on party groups to the Rules of Procedure. This resolution established the first three EP party groups – Christian Democrats, Socialists, and Liberals and Allies. It thus formalised what had swiftly become a habit after the EP's foundation: the MEPs met according to their political affiliation, rather than their nationality, in order to develop political positions and to structure their parliamentary everyday work. Over the next years, party-group membership replaced nationality, or became at least as important, in a number of procedural decisions, such as the attribution of rapporteurship, the composition of committees, as well as the election of the EP's presidents and vice-presidents.²⁰ From June 1958 onwards, the division in party groups also became visible in the plenary meetings: the MEPs agreed to sit according to their political affiliation – not, as during the first years, in alphabetical order.²¹

The early MEPs refused from the beginning to only come together in order to discharge the High Authority for its annual actions. As early as 1953 the EP met between three and four times per year; after the Treaties of Rome plenary sessions became even more regular, soon happening on an almost monthly basis (with a usual summer break in July and August). By holding a lot more sessions than provided, the EP did not breach any rules given by the Treaties – it simply interpreted them to their broadest possible extent: all the Treaties allowed the EP to hold extraordinary sessions were either the High Authority/Commission, the Council or the EP itself to deem them necessary (Art. 22 ECSC, Art. 139 EEC, Art. 109 Euratom). Clearly, the main initiative for such extra sessions came from the EP itself. However, only a few of the plenary meetings were proclaimed as extraordinary ones. While all Treaties

¹⁷ Cf., amongst others, Shackleton (2012); Moreau Defarges (2005); Kardasheva (2009). Tsebelis and Garrett (2000) say that only the Amsterdam Treaty of 1997, with the introduction of a modified co-decision procedure, gave the EP a noteworthy co-legislative role ; cf. also Burns (2005). If the EP's acting before 1979 is examined, the analyses usually address the European Defence Community and European Political Community – both widely considered failed attempts of European integration; and furthermore with the EP's gain in budgetary power in 1970/75, naming little more than the respective treaties, little examining the EP's changing behaviour. Cf., amongst others, Gfeller et al. (2011); Doutriaux/Lequesne (2007); Corbett et al. (2003); Kreppel (2002).

¹⁸ AC_AP_RP!ORGA.1952_AC-0002!53-janvier0001DE_0001.

¹⁹ AC_AP_RP!REGL.1953_AC-0010!53-mai0001DE_0001.

²⁰ Cf., amongst others, Hagger/Wing (1979); Coombes (1979).

²¹ Cf. Guerrieri (2015): 409 seq.

determined the day on which the EP's annual session should begin,²² none stipulated an end.²³ Plenary sessions were hence often officially interrupted, to be continued several weeks later – many sessions thus lasted almost an entire year. Between the plenaries, the MEPs met regularly in their committees and party groups, where – as in most European national parliaments – the bulk of parliamentary work was done.²⁴ For the eager MEPs who refused to simply rubber-stamp Commission action with hindsight, this intermediate level was crucial in order to develop distinct EP policies. Community issues were often of a rather technocratic nature and in their complexity quite different from what the MEPs knew from their national parliaments. Especially in the 1950s, translated texts did not always match in detail in the different languages.²⁵ Thus, finding a profound political position required careful and often lengthy preparation, including the understanding of Commission proposals on several levels – in terms of language as well as of content.

Forming initially three, later more different party groups²⁶ did not immediately lead to controversial debates based on party affiliation. Indeed, over the first decade of the EP's existence, the vast majority of resolutions was decided by unanimity.²⁷ There were a number of reasons for this: most importantly, those parliamentarians who voluntarily took up the double burden of both a national and a European mandate had a strongly ideological motivation – and among the vast majority of MEPs in the 1950s and 1960s, this motivation was decidedly pro-European.²⁸ Hence, most MEPs were united in the aim of an *ever closer union* with an institutional framework that included a democratically legitimised parliament with at least basic legislative powers. Their behaviour was clearly targeted at shaping their institution into such a parliament. Indeed, the early MEPs showed a great interest in appearing united because of their weak Treaty-based institutional position. In order to be heard by Council and Commission, the Euro-parliamentarians felt the need to present a consistent and strong stance on specific policy issues as well as on general questions of further

²² On the second Tuesday in May according to the Treaty of Paris (Art. 22 ECSC), and on the third Tuesday in October according to the Treaties of Rome (Art. 139 EEC, Art. 109 Euratom). The three founding Treaties thus provided for two annual sessions already.

²³ Only the ECSC Treaty (Art. 22) stated that the Assembly's annual session should not last beyond the end of the fiscal year.

²⁴ Cf. Guerrieri (2015); Mittag (2011); Hagger/Wing (1979); Reiferscheid (1966).

²⁵ Astrid Lulling (*1929), secretary of the Lëtzebuerger Arbechter-Verband (trade union) 1949-1963, and Luxembourgish MEP 1965-1974 and 1989-2014, stated in an interview conducted by the author that during the 1950s and partly also 1960s, translations were often made by staff members who happened to master the required languages, without necessarily being professional translators. Particularly since being consulted by the Commission and the Council on legislative proposals, the EP repeatedly criticised discrepancies among the versions of a proposal in the Communities' different languages. Cf. for instance Resolution embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive on the approximation of the laws of the Member States concerning the protection of employees in the event of the insolvency of their employer, adopted on 17 January 1979 (PE0_AP_RP!ASOC.1976_A0-0552!780001EN_0001).

²⁶ The Christian Democrats, Socialists and Liberals and Allies were amongst others joined by Italian and French Communists in 1969 and 1973 respectively, British and Danish Conservatives in 1973, and British Labour MPs in 1975. Besides, there was always a small number of independent MEPs.

²⁷ Cf. Henig (1973): 391.

²⁸ Cf., amongst others, Scully (2005): 58 seq.; Dinan (2004): 118.

integration. A fragmented EP with inner conflicts might have left the Commission and particularly the Council wondering which EP group's opinion to take as representative for the whole institution, and might thus have diverted their interest and induced them to avoid consultations.

Unanimity within the EP did, however, not represent a united stance towards European integration among all member states' national parliamentarians: based on the individual procedures of the national parliaments, not all member states' delegations mirrored their parliaments' composition. Italy and France, for instance, did not allow their – quite strong – Communist parties to join the EP until 1969 and 1973 respectively.²⁹ In several countries, the decisional power over the delegations' composition lay primarily with the governing parties. Hence some parliamentarians in national opposition parties that would have brought controversy into the EP were prevented from entering the EP.

One factor simplifying unanimous decisions was the nature of the early EP resolutions: during the 1950s, the EP was not consulted on many policy issues; most resolutions were based on the MEPs' own initiative, so that they implied rather general remarks than specific proposals for amendments to legal texts. Evidently, for a group of pro-integrationists it was comparably easy to reach unanimity on general demands for further integration and more supranationality than it would have been, and became later, on detailed policy proposals. By standing united, the EP gave the also dominantly pro-integrationist Commission the opportunity to argue in front of the Council that the whole EP stood behind its drafts, or that the EP had asked unanimously for action in a certain area. Thus, the EP strategically gave the Commission the chance to enhance its own position towards the Council, through which the Commission strengthened the EP by acknowledging it as an important partner institution. The number of unanimously adopted reports and resolutions decreased over the 1970s, with the arrival of Communist MEPs and the extension of the EP following the first Community enlargement.

The limited consultative role of the EP that the Treaties of Rome established did not satisfy the early MEPs. So from the early 1960s onwards they adapted their action accordingly – and behaved as if they had been consulted on a much higher number of legislative drafts than was actually the case. While initially mainly commenting on overall directions of policy action as intended in the proposals, the EP adopted more and more resolutions with specific amendments to the wording and content of the legislation. The MEPs thus started to develop an inter-institutional habit, submitting their resolutions to both the Commission and the Council. Indeed, from the mid-1960s on, the frequency with which particularly the Council consulted the EP prior to decisions on Commission social-policy proposals increased considerably – by the 1970s, almost every EP resolution related to a socio-political legislative draft began with a remark that the Council had sought the EP's opinion.³⁰ This development leads

²⁹ Cf., amongst others, Bracke (2007); Guerrieri (2011); Benhamou (2010).

³⁰ Héritier (2007: 71) states that by the mid-1970s, the Council consulted the EP on effectively every legislative proposal 'except those of purely technical or temporary nature'.

to the assumption that the EP's habit of making its opinion known turned into a Council practice of consulting it.³¹ The Council's behaviour was not necessarily based on the altruistic motivation of strengthening the EP's position in Community policy-making: including the opinion of the EP, as the citizens' representative, gave the respective legislative texts more democratic legitimacy. Ever since the Hague Summit of 1969, member states' heads of state and government as well as Commission officials declared repeatedly their aim to give the Community a more 'human face', and to improve its wider image; giving Community decisions a more democratic foundation certainly seemed to be helpful in this endeavour. Again, the EP thus succeeded in strategically convincing another Community institution of the value of its stronger inclusion in legislative procedures.

In terms of consultation, the main change that occurred between the 1950s and 1970 was thus to the relationship between the Council and the EP. As mentioned before, the Commission had from the outset adopted a pro-integrationist stance, so that its policy aims were roughly in line with those of the EP. Although the EP usually pressed the Commission for more Community action, and the Commission had to repeatedly tone down the EP's demands in order to make them politically realistic, both institutions could generally count on each other's support, and indeed needed and used each other in order to consolidate and strengthen their own position. Also, the Commission had to struggle at times to not be sidelined by intergovernmental decisions, particularly in the 1970s, following the collapse of the Bretton Woods System, the oil shock and the resulting economic and financial crisis.³²

Given the EP's weak role as provided by the Treaties, the MEPs were aware that they would not reach the position of co-legislator simply by offering their opinion on every proposal the Commission sent to the Council. Their aim was, instead, to give their institution a wider range of parliamentary characteristics, not least based on the dominating conviction among the MEPs that an *ever closer union* required an institution with proper parliamentary powers.³³ Next to legislative influence, they focused on the function of controlling both the Commission and the Council. In terms of the Commission, this task was fairly easy – not only because the Treaty gave the EP the power of a motion of censure,³⁴ and required the Commission to answer MEPs' questions. In addition, in the year 1973, the Commission voluntarily strengthened the

³¹ The increase of consultations through the Council is not necessarily, or at least not only, a change of the Council's behaviour – it must be regarded in connection with the EP's generally growing, increasingly detailed dealing with legislative proposals. Obviously, the Council did not approach the EP when it was acting on its own initiative, unconnected to Community action. The more involved the EP got in Community legislation, the more the incentive grew for the Council to incorporate the EP through consultation.

³² Cf. i.a. Nielsen-Sikora (2007).

³³ Cf. Rittberger (2014): 1176 and 1181.

³⁴ The EP was not entirely satisfied with this right: it only had the possibility to dismiss the entire Commission, and had no influence whatsoever on the Commission's composition. Thus, it effectively had no power of control over the individual Commissioners. Before 1979, no Commission was ever dismissed by the EP, although a formal question for a motion of censure was submitted by the French Socialist Georges Spénale, aiming to criticise the delay of a Commission proposal to further strengthen the EP's budgetary powers. Cf. Sasse (1976): 35 seq.

EP's control power over it, by agreeing to henceforth give a justification for whether or not it accepted EP amendments to its legislative proposals – in some cases for every single amendment adopted by the EP.³⁵

Control over the Council was much more difficult for the EP – mainly because none of the founding Treaties provided any tool to do so. However, the MEPs' double mandate did: being delegates from the national parliaments to the EP, they kept their national mandates, which allowed them to exert some pressure on their national ministers – and thus on at least some Council members. In order to do this, they needed to convince their colleagues in the national parliaments, which was at times a hard task: already the early MEPs met stark disinterest when trying to put Community issues on national agendas, due to the technocratic character and complexity of many topics, and also based on a certain degree of '[i]nstitutional and political jealousy'³⁶. Nevertheless, many resolutions included the call on MEPs to advocate for certain EP demands in their home parliaments, and to mobilise all possible support there, with the aim to influence national governments.³⁷

For their second means to scrutinise the Council – the parliamentary question – the MEPs depended initially on the Council's goodwill: according to the Treaties, only the High Authority/Commission was obliged to answer MEPs' questions. Over the years 1952-1958, this prioritisation of the High Authority seemed perfectly sufficient – as the High Authority was the institution with the most decision-making power in the ECSC. With the entry into force of the Treaties of Rome, however, the Council became more powerful than the new Commission. In order not to lose its source of information and control, the EP hence pressed for the right to also put questions to the Council. Though – as mentioned before – not included in the Treaties, the Council agreed in 1958 to answer both written and oral EP questions.³⁸ To establish some form of pressure on the Council members, it was decided that if the Council did not answer within two months, the questions would be published unanswered in the Official Journal. The MEPs grew quickly fond of this new instrument of political control: in the 1958-1959 session, as many as 41 questions were put to the Council; the number increased steadily until the introduction of the

³⁵ Cf. Dutoit (2009): 76.

³⁶ Henig (1973): 391.

³⁷ Cf., amongst others, Resolution on the second report of the Commission of the European Communities to the Council on the possibilities and difficulties facing Member States regarding the ratification of a first list of agreements concluded within the framework of other international organizations, adopted on 4 April 1973 (PE0_AP_RP!ASOC.1967_A0-0289!720001EN_0001); Entschließung über die Stellung des Europäischen Parlaments im Hinblick auf die neuere institutionelle Entwicklung der Europäischen Gemeinschaften, adopted on 20 October 1966 (PE0_AP_RP!POLI.1961_A0-0118!660001DE_0001); Entschließung betreffend die Anwendung von Artikel 119 des EWG-Vertrages, adopted on 29 June 1966 (PE0_AP_RP!ASOC.1961_A0-0085!660001DE_0001).

³⁸ Cf. i.a. Freestone/Davidson (1988): 81; Bieber (1974): 49 (referring to Art. 19 of the Council's Rules of Procedure, cf. http://www.cvce.eu/content/publication/1999/1/1/4b933714-294e-45dc-abee-26bcd4aaa63/publishable_fr.pdf, visited on 9 May 2016), and Stein (1959): 244 seq.

Question Time in 1973.³⁹ This parliamentary procedure itself became swiftly an important tool of exchange and control for the EP, towards both Council and Commission.⁴⁰

Although the European Parliament succeeded in introducing these variations of scrutiny, its influence on the character of the responses was very limited. The answers to written questions often took months to arrive, thus undermining the intended topical nature of the questions. The Council in particular also prepared answers for Question Time, as well as to oral questions, so strictly in advance that little lively debate was possible. Due to the preparation process of the answers, they also contained only general statements: usually, the General Secretariat of the Council would prepare a draft answer, which would then have to be approved by all Council members. This procedure was not only time-consuming, it also led merely to a lowest common denominator in terms of content, so that particularly interesting differences in opinions did not become visible, making Council answers at times little more revealing than press communiqués.⁴¹ The ministers present in EP plenary sessions were supposed to keep answers to follow-up questions ‘short and to the point’⁴², so that the MEPs could again not hope for particularly revelatory spontaneous statements. Additionally, Council and Commission members rarely answered EP questions on the same day, despite their intertwined roles in legislative processes, thus granting the EP only piecemeal insights into ongoing legislative projects. Nevertheless, as Freestone and Davidson note:

‘The fact that the Council and the Foreign Ministers take part in question time must surely indicate a recognition, albeit grudging, that the EP has a legitimate right to make demands of them, and this is perhaps the beginning of accountability.’⁴³

The MEPs’ questions themselves were often more important for the EP’s role in legislative procedures than the answers, considering what alternative tools the EP had at hand. In that sense, parliamentary questions turned into an instrument of initiative – albeit a rather limited one: MEPs would ask for general Community engagement in specific fields, would point towards unjust conditions or urgent needs for action, or would question particular details in (currently negotiated or already existing) Community legislation. Occasionally these questions led to a visible outcome. The Luxembourgish MEP Astrid Lulling recalled in an interview conducted by the author that based on her written questions 331/70 from 27 October 1970⁴⁴ and 520/70 from 9

³⁹ Cf. Westlake (1990): 3 seq. Eric Stein states in 1959 already: ‘the Rule [of the Council answering EP questions] may now be considered accepted practice’ (Stein 1959: 245), based on the immediately high number of parliamentary questions.

⁴⁰ Cf., amongst others, Westlake (1990): 8; Freestone/Davidson (1988): 81; and Medefind (1975): 64.

⁴¹ Cf. Bieber (1974): 49 seq.

⁴² Westlake (1990): 11.

⁴³ Freestone/Davidson (1988): 81. The Communities’ foreign ministers had agreed in 1976 (according to Freestone/Davidson) to answer EP questions on the domain of political co-operation. The Groupe d’Etudes Politiques Européennes (1978: 15) states the European Council in Dublin, 10-11 March 1975, as the point at which the EP was formally granted this right.

⁴⁴ PEO_AP_QP!QE_E-0331!700010DE_149148.

February 1971⁴⁵, the Commission changed rules for family allowances paid to Community officials that discriminated against women working in a country other than their country of origin, and who were married to men from the member state in which the women worked (e.g. a Dutch woman married to a Belgian man): these women did not receive an extra allowance despite coming from another country – an allowance that was granted to all unmarried women and to all men in the same situation. The reason was: these married women were not considered ‘head of the household’; and the respective rules only granted the extra allowances if the ‘head of the household’ came from another member state than the one he or she worked in. Astrid Lulling pointed repeatedly towards this discrimination, which was, according to her account, consequently abolished by the Commission.

Usually, one single MEP stood behind at question; at times also two or more – however, questions were always based on the initiative of few. At this point, it might be important to emphasise that the EP’s development and its emerging role depended very much on the level of activity of its members. In the area of social policy, Astrid Lulling is one of those who stand out for asking a high number of questions. Most famous for pestering Commission and Council, however, is the Dutch Socialist MEP (and later Commissioner) Hendrikus Vredeling, at some point nicknamed ‘Vrageling’ for the hundreds of parliamentary questions he alone asked during his mandate between 1958-1973.⁴⁶ When depicting the EP as eager to hold the other Community institutions accountable, this paper mainly refers to a limited number of MEPs. It should not be assumed that the EP consisted of a homogenous group of eager Euro-politicians. Despite the already described dominating pro-integrationist attitude among the MEPs, their level of involvement differed both qualitatively and quantitatively. Naturally, the most active parliamentarians had the highest impact on the EP’s perception and image. And when answering their questions, it can be assumed that both the Commission and the Council felt confronted not so much by one single person, but rather the EP as a whole, not least due to the later publication of the answers and the questions.

The subliminal impact of MEPs’ questions, particularly through frequent repetition and reminding, is certainly hard to measure. Yet it can be assumed that despite late and evasive answers, the repeated appearance of certain issues in the questions, and thus in the Official Journal and on the Commission’s and Council’s agenda (not least in the process of preparing answers), resulted in Community action and legislative drafts that might otherwise either have come much later, or not at all.

Especially in the first decade of the EP’s existence – in those years in which it was not yet regularly consulted on draft legislation – the EP undertook its own research and study trips, followed by quite detailed reports and resolutions proposing Community legislation or action.⁴⁷ The more the Council and Commission involved

⁴⁵ PEO_AP_QP!QE_E-0520!700010DE_154150.

⁴⁶ Cf. Westlake (1990): 4.

⁴⁷ Cf., amongst others, Bericht im Namen des Ausschusses für Fragen der Sozialpolitik über die Studienreise eines Unterausschusses vom 14. bis 21. Februar 1954 zur Erarbeitung von Grundlagen für die Beurteilung der auf dem Gebiet des Arbeiterwohnungsbaus zu befolgenden Politik, 1 May 1954

the EP in legislation, however, the less the EP adopted such own-initiative documents, being now busy with tasks that were much more crucial for the EP's development into a fully-fledged parliament. The MEPs were aware that their chances to gain legislative influence were much higher when proposing amendments to already discussed topics, than in proposing entirely new suggestions of Community action. This choice was strategic in a twofold sense: on the one hand, the EP indeed managed to introduce pro-integrationist aspects into several Community decisions that would prove important in the development of a common social policy. On the other hand, the EP thus increased its influence within the institutional framework, and laid the foundation of becoming a co-legislator, as will be shown in specific examples in the area of social policy in the following section.

The increasing involvement of the EP, and thus its increasing weight among the Community institutions, went hand in hand with the Council granting it two further possibilities of scrutiny not mentioned in the Treaties, beside the parliamentary questions: firstly, since 1960, the Council met the EP's demand to submit an annual report, which the Council President presented to an EP plenary session.⁴⁸ This annual report never reached the importance of the High Authority's/Commission's equivalent, as it only listed meetings and the topics which the Council had debated, and offered very little information that was new to the EP. Yet it was one more example of the Council justifying its action before the EP, without being obliged – or even encouraged – to do so by the Treaties. Secondly, connected to the extension of the EP's budgetary powers, the Council agreed in the early 1970s to explain to the EP why it did or did not follow its proposals and amendments to legal drafts, just as the Commission had been doing since 1973.⁴⁹ Thus, the Council committed itself to take seriously the EP's resolutions and reports on Commission proposals, a development which strengthened the EP's consultation rights, and made its opinions an inherent part of Community legislation procedures. This increasingly powerful position was yet further strengthened at the Paris Summit of 1972 when both Council and Commission agreed to re-consult the EP in cases where, after the initial submission of a proposal to the EP, substantial changes to the legislative draft were envisaged, so that the EP would have the opportunity to give its opinion on the actually debated text.⁵⁰

(AC_AP_RP!ASOC.1953_AC-0006!54-mai0010DE_00001000); Bericht im Namen des Ausschusses für Fragen der Sozialpolitik über die Probleme der Anpassung der Arbeitskräfte in den Industrien der Gemeinschaft, 1 June 1956 (AC_AP_RP!ASOC.1953_AC-0026!56-mai0010DE_00001000); Entschließung zu den Ergebnissen der Studienreisen in die Länder der Gemeinschaft zur Prüfung der besonderen Probleme der Freizügigkeit der Arbeitnehmer, adopted on 23 January 1964 (PE0_AP_RP!ASOC.1961_A0-0118!630001DE).

⁴⁸ Cf. Bieber (1974): 47 seq.

⁴⁹ Cf. *ibid.*: 46 seq. Adrienne Héritier (2007) names several letters from 1969 and 1970 in which the Council committed itself to inform the EP about its reasons in case the EP's opinion was not taken into account when adopting legislation – initially only applying to financial implications, then to all 'important questions' (Héritier 2007: 71). Cf. also Corbett (1998).

⁵⁰ Cf. Héritier (2007): 71.

Getting involved: The EP's emerging co-legislative power

The difference between Treaty provisions and the EP's role in reality was considerable before the EP's first direct elections. This section focuses on the most noteworthy informal power that the EP gained before 1979: the power of effective – although still restricted – co-legislation. Through the MEPs' persistence in commenting on most Commission proposals in the area of social policy, they successfully consolidated their institution's role as being an recognised level that a legislative proposal would have to pass.

The EP's influencing of Community legislation did not start with its comments on Commission proposals: already before the Commission had finished its first draft, it involved the MEPs.⁵¹ Commissioners and staff regularly visited EP committee meetings.⁵² As these were, contrary to all plenary sessions, not public, it can be assumed that the Commission members were willing to speak about ongoing or intended legislation projects much more openly than when, for instance, reacting to MEPs' official questions. As part of the EP's control over the Commission, and because the latter was convinced of the importance of parliamentary involvement in Community legislation, the Commission made sure to already obtain the MEPs' opinion at this very early stage. There were no Treaty provisions for this round of selected pre-draft consultation – simply because the EP's committee system was not treaty-based, but created by the EP on its own initiative.

In the next, more official round, the EP could be consulted by the Commission or the Council, or – as happened increasingly by the late 1960s – by both. At this stage, the EP's legislative influence is easily measurable: the comparison of the Commission proposal, the respective EP resolution, and the text finally adopted by the Council shows which EP amendments Commission and/or Council accepted, and which they rejected. Thus, the analysis of connected Commission, EP and Council documents offer insight into one of the EP's main possibilities of influencing legislation.

The EP's amendments to Regulation No. 15 on the free movement of workers

As a first example, this paper offers an analysis of the EP's resolution from 15 October 1960 on the first regulation concerning the free movement of workers and

⁵¹ Amongst others, that is indicated in the EP Resolution embodying the Opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive on the approximation of the laws of Member States concerning the application of the principle of equal pay for men and women contained in Article 119 of the EEC Treaty (PE0_AP_RP!ASOC.1973_A0-0021!740001EN_0001), which is analysed in a later chapter. In this resolution, paragraph 10., the EP demonstrated its knowledge of a specific programme that the Commission was drawing up at the time, as part of its Social Action Programme (adopted 1974).

⁵² Cf. Hagger/Wing (1979): 139 seqq. The authors state that 'two or three officials of the Commission were in attendance at virtually every meeting' (139) of the EP's Regional and Social Committee, while Commissioners were present at 28.6% of the meetings.

their families within the Communities.⁵³ This is a very ‘classical’ case of Community legislation: the Commission drafted a proposal, the EP was consulted – although Council or Commission were not called by the Treaties to do so⁵⁴ – and the Council finally adopted an updated version of the initial proposal. The Commission submitted its proposal to Council and EP on 4 July 1960, and the Council adopted the Regulation No. 15 on 16 August 1961. In terms of the EP’s involvement, this case is an exceptional one, particularly for its time: this analysis is not limited to the proposal, the EP resolution and the adopted regulation. Additionally, the Historical Archives of the European Union in Florence offer an updated Commission proposal⁵⁵ – with comments on the EP amendments (as well as amendments proposed by the Economic and Social Committee), and the Commission’s reasons for either adopting them or leaving them out; more than a decade before the Commission officially agreed to give the EP such justifying information. With this behaviour – by showing that it took the EP’s amendments seriously, and considered carefully the value and meaning of each – the Commission encouraged the EP to continue issuing such detailed amendments to proposals. After all, this resolution was, at least in the area of social policy, among the first in which the EP looked at a legislative project so closely, and commented and proposed amendments in such detail.

In terms of the EP’s legislative influence, this resolution was not one of the most successful, which is however unsurprising, keeping in mind that it was one of the first attempts. The majority of the amendments proposed in the EP resolution concerned minor formulations – an added ‘latest by’ in front of a deadline, a ‘criterion’ replacing a ‘principle’, a deleted ‘other’ in front of ‘family member’ or ‘worker’, to name just a few. Some of these single words were, of course, of noteworthy importance – for instance, the EP successfully changed a minimum of *six* years to *five* in an article determining how long a worker would have to have worked in a Community member state other than his country of origin before being allowed to take up any occupation in that state, under the same conditions as that state’s citizens. This amendment survived into the final Regulation No. 15.⁵⁶ In terms of time pressure, the EP furthermore successfully introduced the deadline of *two months after the regulation’s coming into effect* as the point at which an advisory committee would

⁵³ EP resolution: Konsultation des Europäischen Parlaments über die Bestimmungen einer Verordnung betreffend die ersten Maßnahmen zur Herstellung der Freizügigkeit der Arbeitnehmer innerhalb der Gemeinschaft und von Richtlinien auf dem Gebiete der Verfahren und der Verwaltungspraxis für die Einreise, für die Beschäftigung und für den Aufenthalt der Arbeitnehmer eines Mitgliedstaates und ihrer Familienangehörigen innerhalb der anderen Mitgliedstaaten der Gemeinschaft, adopted on 15 October 1960 (PE0_AP_RP!ASOC.1958_A0-0067!600001DE_0001). The initial Commission proposal is completely published in the connected EP report from 5 October 1960 (PE0_AP_RP!ASOC.1958_A0-0067!600010DE_00435459). Updated Commission proposal: HAEU, CM2/1961-378. Adopted Regulation: <http://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=OJ:P:1961:057:FULL&from=EN> - visited on 10 May 2016). The proposal for a directive which the EP commented in the same resolution, and which the Council also adopted on 16 August 1961, is not taken into consideration here, due to its rather technocratic character, as well as only minor EP amendments.

⁵⁴ Art. 48-51 EEC, which were the main articles on which the free movement of workers was based, made no mention of the EP.

⁵⁵ HAEU, CM2/1961-378.

⁵⁶ Cf. Art. 6, Regulation No. 15.

have to be established, supporting the realisation of the regulation's rules and aims.⁵⁷ The EP could set the same deadline for a technical committee.⁵⁸ As a third example, the EP managed to move the deadline forward until when the Commission would have to propose measures for the second stage of the implementation of the free movement of workers: the first Commission proposal set this deadline on 31 December 1962. The EP proposed instead 30 June 1962. As the Council only adopted the regulation on 16 August 1961, that date had seemingly become unreasonable, so that it was finally set on 30 September 1962 – still three months ahead of the initial date.⁵⁹ With most of these deadline amendments, the EP aimed not least at strengthening the role of supranational institutions and bodies – here: the two mentioned committees and the Commission. It also attempted to do the same through a number of amendments concerning the committee meetings, their exchange of information, their right to invite experts and observers, and their work in general, most of which were successful and appeared in the adopted Regulation No. 15. The EP's aim to also strengthen the Commission's role shows why the Commission tended to be on the EP's side: both aimed for a stronger supranational institutional framework. Interestingly, in the case of the drafts for Regulation No. 15, the EP demanded at one major point that seemingly too much responsibility be placed on the Commission's shoulders:

*'Es ist Aufgabe der Kommission, für die strenge Einhaltung der Bestimmungen dieser Verordnung Sorge zu tragen.'*⁶⁰

Neither the Commission nor the Council accepted this amendment.

In general, the Commission tried to accommodate the EP, not only by taking its amendments into consideration, but also by changing its initial proposal based on general remarks made in the EP resolution. Amongst other things, the EP emphasised the overall importance of extensive and detailed information exchange between the member states and the responsible institutions and bodies. Accordingly the Commission – partly successfully – attempted to introduce in its updated proposal more comprehensive rules for such exchange, explicitly referring in its explanatory comments to the EP's efforts to improve the exchange.⁶¹ Furthermore, the Commission accommodated the EP's aim to add a social dimension to the regulation on the free movement of workers, focusing particularly on the migrant workers' and their families' social care. The EP had unsuccessfully tried to include this dimension in the preamble; instead the Commission won the Council's approval by including it in a later article.⁶² In general, the EP frequently pointed towards the social dimension of the Community's labour policy, and emphasised that improved living and working

⁵⁷ Cf. Art. 31, Regulation No. 15.

⁵⁸ Cf. Art. 38, Regulation No. 15.

⁵⁹ Cf. Art. 52, Regulation No. 15.

⁶⁰ EP resolution (PE0_AP_RP!ASOC.1958_A0-0067!600001DE_0001), amended Art. 49, paragraph 1.

⁶¹ Cf. Art. 23 of the updated Commission proposal (HA EU, CM2/1961-378), and of Regulation No. 15.

⁶² Cf. Art. 29, Regulation No. 15.

conditions of the Community's citizens could not only be means to more economic growth, but had to be political aims in their own right.

The EP's engagement for female workers

Regulation No. 15 was soundly based on Treaty provisions – all founding Treaties named the free movement of labour as crucial part of European integration.⁶³ In fact, only very few social-policy aspects had such a profound Treaty background. Among them was also the equal remuneration of male and female workers for work of equal value (Art. 119 EEC). Again, the Treaty provided for no consultation of the EP on the matter. Nevertheless, the EP occupied itself from the late 1950s on regularly not only with the subject of equal pay, but with equality of men and women at work in general. Its engagement bore fruit – when the Council in the 1970s, long after the initially intended schedule,⁶⁴ began to tackle sex discrimination in remuneration and working conditions in general, the ministers consulted the EP, and included its opinion in legislative drafts. The first truly game-changing piece of Community legislation was the Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women.⁶⁵ This directive was based on a Commission proposal submitted on 19 November 1973⁶⁶, in response to which the EP adopted a resolution on 25 April 1974.⁶⁷

As usual, the EP commented on the Commission proposal both in a general manner and in detail, proposing concrete amendments. While the draft directive aimed to merely implement equal pay in the Community member states, the EP, in its general remarks, demanded greater quality overall, particularly more equal treatment in terms of pensions,⁶⁸ education and training,⁶⁹ and – in connection to and as consequence of the latter – measures to raise the number of women in managerial and generally higher positions.⁷⁰

In its concrete amendments to the Commission's proposal, the EP refrained from appealing to go beyond the mere provision of equal pay, yet attempted to strengthen the position of female workers in their struggle for equal pay: for the first article of the directive, the EP adopted an amendment changing the mere *approximation of national laws*, as proposed by the Commission, to the establishment

⁶³ Cf. Art. 69 ECSC, Art. 48-51 EEC, Art. 96 Euratom.

⁶⁴ Initially, the member states had intended to abolish discrimination in terms of remuneration by December 1964. Cf. Warner (1984): 144.

⁶⁵ Cf. http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.1975.045.01.0019.01.ENG.

⁶⁶ Cf. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:1973:114:FULL&from=EN>, p. C 114/46.

⁶⁷ Resolution embodying the Opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive on the approximation of the laws of Member States concerning the application of the principle of equal pay for men and women contained in Article 119 of the EEC Treaty, adopted on 25 April 1974 (PE0_AP_RP!ASOC.1973_A0-0021!740001EN_0001).

⁶⁸ Cf. *ibid.*, paragraph 6.

⁶⁹ Cf. *ibid.*, paragraphs 7. and 9.

⁷⁰ Cf. *ibid.*, paragraph 8.

of *common standards* of equal pay.⁷¹ In Art. 1 of the later adopted Council Directive, neither of the two formulations appeared; instead, the Council emphasised equal pay as a *principle*. That principle character was, at another point, also demanded by the EP, and indeed successfully added into Art. 3 of the directive, in which it had previously not appeared. The EP tried to furthermore abolish ‘any occupational category that is based on a distinction between male or female duties or posts’⁷²; however, that demand was not included in the final text. Also, the EP tried to introduce a duty for the member states ‘to provide an effective sanction against dismissals which might be construed as an employer’s reaction to a complaint at the level of the undertaking or to suits tending to ensure that the principle of equal pay is respected’ – the Commission had merely asked for measures to prevent such dismissals. In this case, the eventually adopted text offered a compromise - stronger than the Commission proposal, yet not going as far as the EP amendment: it asked for measures to *protect* the workers against such dismissals, instead of only *preventing* the latter.⁷³ The EP further emphasised the importance of workers’ broad information on their rights in terms of equal pay: the Commission’s proposal only provided for information *at the working place*, while the EP added ‘employment agencies and at other suitable places accessible to the public’⁷⁴. The adopted Council directive differed from the Commission proposal in an only minor, yet content-changing manner: Art. 7 of the directive demanded workers’ information ‘**for example** at their place of employment’⁷⁵, thus allowing it to be more widespread.

The EP did not always manage to introduce multiple changes to legal proposals - at times, only one or two of its amendments made it into the final text. However, even one or two accepted amendments could be crucial for those concerned by the regulation or directive. For instance, in its resolution from 15 November 1977 on a Council directive concerning the equal treatment of men and women in matters of social security,⁷⁶ the EP added a paragraph to the Commission proposal demanding that ‘all persons who consider themselves wronged by the failure to apply to them the principle of equal treatment as laid down in this Directive may **pursue their claims by judicial process**’⁷⁷. Indeed, the final text included this amendment (and only this amendment, though it might be said that the EP only adopted two in that case).⁷⁸ Thus, the EP effectively enabled discriminated workers to take legal action, improving their chance of success through this emphasis.

⁷¹ Cf. *ibid.*: Art 1.

⁷² *Ibid.*: Art. 4, paragraph 2. added by EP.

⁷³ Cf. *ibid.*, Art. 5; Art. 5 of the Council Directive.

⁷⁴ Cf. EP resolution, Art. 7.

⁷⁵ Cf. Art. 7, Council Directive. Emphasis added by the author.

⁷⁶ Cf. Resolution embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Directive concerning the progressive implementation of the principle of equality of treatment for men and women in matters of social security, adopted on 15 November 1977 (incl. the Commission proposal; PE0_AP_RP!ASOC.1976_A0-0355!770001EN_0001); adopted Council Directive 79/7/EEC: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31979L0007> (visited on 12 May 2016).

⁷⁷ Art. 7a as added by the EP (cf. resolution PE0_AP_RP!ASOC.1976_A0-0355!770001EN_0001).

Emphasis added by the author.

⁷⁸ Cf. Art. 6, Council Directive 79/7/EEC.

Conclusion

This paper has aimed to show that the EP had considerable influence on Community legislation, and political action in the Communities in general, already before its first direct elections, despite the weak and restricted role provided for it by the Treaties.⁷⁹ The early MEPs succeeded in consolidating and strengthening their position by strategically acting unanimously (mainly during the 1950s and early 1960s), supporting the Commission – and thus achieving acknowledgement, demanding not only information, but justification from the Council, and most of all by getting involved as much as the MEPs possibly could, using all levels of influence available to them – the EP plenary sessions, committee and party group meetings as well as their national parliaments. Through examples of successful legislative influencing – long before any Treaty granted the EP the official right to do so – this paper showed the discrepancy between the EP’s formal powers, and its informal impact through different political tools and strategies chosen by the MEPs. The establishment of habits turned out to be more decisive for the EP’s position within the Community’s institutional framework than most Treaty provisions. Those few articles that addressed the EP were interpreted by the MEPs to their broadest possible extent. The voids that the Treaties left open for the intended Assembly were filled by the MEPs with as many parliamentary habits as the new supranational construct allowed.

It would be wrong to perceive the pre-1979 EP’s gain of power as a linear process towards ever more supranational influence. As described above, the EEC Treaty was to a certain extent a step back for the EP, as there was no paragraph offering the EP any control of the Council – which had replaced the ECSC’s High Authority as the most powerful institution in the newly founded Community, and on which the EP could exert pressure with different strategies and tools. The so-called ‘Empty Chair’ crisis of 1965 and the ‘Luxembourg compromise’ in the following year increased the number of unanimously taken Council decisions,⁸⁰ facilitating the blocking of decisions by single votes from member states, and thus lowering the EP’s chances to introduce strongly pro-integrationist amendments and initiatives. The long struggle for direct elections was marked by some setbacks, mainly consisting of delays and deadlines that were not kept.⁸¹ Last but not least, the EP consisted of an increasingly diverse group of parliamentarians with quite differing political attitudes and aims, some of whom fundamentally questioned European integration in general, and the EP’s role in particular.

Just as the MEPs were driven by different underlying political aims, their level of motivation to get involved on Community level varied: as in all groups of people working together, some were more eager to induce and influence Community action than others. When speaking of ‘the MEPs’, this paper more or less unwillingly refers mainly to the most active ones, who naturally had the most influence. On the other

⁷⁹ Julie Smith (1999: 65) states as well that at the point of the EP’s first direct elections, its ‘de facto functions were greater than its de jure powers’.

⁸⁰ Cf., amongst others, Ludlow (2001).

⁸¹ Cf., amongst others, Corbett (1998).

hand, some MEPs stood out for being particularly inactive; repeatedly mentioned in this respect are some (not all!) members of the Italian delegation to the EP, which was the delegation with the highest level of absenteeism, not least due to some issues in the (re-)appointment of delegates during the 1950s and 1960s, and the comparably long distance between Rome and Brussels.⁸²

In general, the role of the EP prior to 1979 should not be overemphasised: among the four major Community institutions, it remained the weakest. Nevertheless, its informal gain in power is both remarkable in itself, and crucial for the understanding of the European Communities' swift institutional development – most of all today's role of the EP. Despite the increasing diversity among the MEPs particularly from the 1970s on, the majority agreed on the fundamental role of their institution, and that the EP should have a stronger voice in Community legislation; and most MEPs acted accordingly. Through their supranational activism, the MEP not only defined their own role; they added a supranational dimension to early Community legislative procedures that went far indeed beyond the Treaties' clauses.

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⁸² Cf., amongst others, Guerrieri (2011): 49; Kapteyn (1962): 255 seqq.

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