

## The European Parliament's Emerging Power of Initiative prior to 1979

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### **Abstract**

The European Parliament (EP) was little more than a consultative assembly prior to its first direct elections in 1979 – that is, according to the Treaties founding the European Communities. Yet, by the 1970s the EP had in fact developed a position far beyond the Treaty provisions: by skillfully using all available tools, the MEPs gained considerable influence in legislative procedures, and even established a power of initiative. This paper assesses the different strategies applied by MEPs to go beyond the dominantly consultative role of their institution in attempting to initiate Community action and legislation. The analysis is based on a selection of EP documents from the area of social policy, which is particularly suited for such an analysis given its relatively thin Treaty basis, requiring a high degree of initiative beyond Treaty paragraphs and thus leaving a notable scope for the EP to get involved. In addition, this paper builds on 17 semi-structured interviews with former MEPs and members of EP staff, sitting in or working for the EP prior to 1979. These interviews offer valuable information on informal procedures and the establishment of routines within the EP, as well as among EP, Commission and Council, constituting the fundament of the EP's influence on legislative procedures. The combination of these sources allows a detailed insight into the early EP's activism and its own-initiative attempts, which can be considered a crucial element in the EP's evolution towards a fully-fledged parliament.

*Keywords: European Parliament, EU legislation, parliamentary powers, power of initiative, informal procedures, social policy, European Communities, European integration.*

### **Introduction**

The European Parliament (EP) was little more than a consultative assembly prior to its first direct elections in 1979 – that is, according to the Treaties founding the European Communities. These Treaties granted the Members of the EP (MEPs) only few parliamentary powers, notably the power of control over the Commission with the possibility to discharge it, and some influence on the Community budget. Yet, by the 1970s the EP had in fact reached a position far beyond the Treaty provisions: by skillfully using all available tools, the MEPs gained considerable influence in legislative procedures, not least by establishing a basic power of initiative.

The latter was reached through parliamentary questions on the one hand, which were not so much used in order to obtain information from the Commission and Council, but rather to point to the need for action. On the other hand, Commission and Council members agreed to join EP committee meetings, which were not public, and in which legislative projects were hence openly and vividly discussed – even before becoming an official Commission proposal. Such discussions led the

Commission in a number of cases to include EP opinions into its legislative proposals. Furthermore, the exchange at committee level occasionally induced the Commission to prepare a proposal it had until then not at all intended.

This paper assesses the different strategies applied by MEPs to go beyond the dominantly consultative role of their institution in attempting to initiate Community action and legislation. The analysis is based on a selection of EP documents primarily from the area of social policy, as well as the connected Commission proposals and the legislative texts finally adopted by the Council. The area of social policy is particularly suited for such an analysis given its relatively thin Treaty basis, requiring a high degree of initiative beyond Treaty paragraphs, and thus leaving a notable scope for the EP to get involved. In addition, the EP showed from its foundation in 1952 a strong interest in being perceived as representative of the Communities' citizens – both by the population and the other Community institutions, in order to give its actions more weight. Engagement for better living and working conditions, and thus a strengthened social dimension in the Communities, hence served the MEPs in their aspirations to improve the status of their institution.

In addition to a closer analysis of the above-mentioned documents, this paper builds on 17 semi-structured interviews with former MEPs and members of EP staff, sitting in or working for the EP prior to 1979. These semi-structured interviews, conducted between September 2015 and April 2017, offer valuable information on informal procedures and the establishment of routines within the EP, as well as among the EP, the Commission and the Council, constituting the fundament of the EP's influence on legislative procedures. The combination of these sources allows for detailed insights into the early EP's activism and its own-initiative attempts to reach truly parliamentary powers. The paper shows that some, though by far not all of these attempts were successful. It looks not only at EP attempts to initiate legislation, but understands the EP's power of initiative more broadly: the analysis includes also proposals for one-time Community action.

The paper begins with a brief history of the EP prior to 1979, in order to allow for a sufficient understanding of the historical context, as well as the formal preconditions the MEPs faced. It then goes into a tripartite analysis, starting with some insights on the MEPs' expectations in terms of a power of initiative, and the changing proportion of own-initiative actions in the EP's overall workload. This is followed by a detailed analysis of several cases of EP initiatives, assessing what tools the MEPs chose in order to bring forward proposals and ideas. Finally, the reasons the MEPs saw as justification for the EP's power of initiative are analysed, as well as the reactions of Commission and Council to the EP's attempts, before arriving at some concluding remarks. Overall, this paper builds on the theoretical approach of historical institutionalism. It understands the evolution of the EP's power of initiative as a path-dependent process, the roots of which lay in the MEPs' parliamentary experiences at national level on the one hand, and in their perception of the EP – or rather, the future role of the EP – on the other: that of a true supranational parliament, with full parliamentary powers.

## **A brief history of the European Parliament prior to its first direct elections**

The EP is one of the Communities' oldest institutions. It was, however, the initially weakest among the main four – Council, Commission and Court of Justice besides the EP. It was founded not as a parliament, but as the Common Assembly of the European Coal and Steel Community (ECSC) in the Treaty of Paris, on 18 April 1951. Its main, and almost only, task provided by the Treaty was the control of the executive, the High Authority of the ECSC, predecessor of the later Commission. The Treaties of Rome of 25 March 1957, founding the European Economic Community (EEC) and the European Atomic Energy Community (Euratom), added one main task to the Assembly's fairly short list of responsibilities: it was to be consulted by Council and High Authority/Commission in a number of policy areas (not all – for instance in only very few social-policy matters). However, the Assembly's opinion had no binding influence on Community legislation. Formally, the 1970s brought a considerable increase in power, with the two Community budget treaties of 1970 and 1975 granting the Assembly budgetary powers, and with the first direct elections of the Assembly's members in 1979.

Despite the limited parliamentary characteristics of the early Assembly, most of the early MEPs aimed to behave as much like Euro-parliamentarians as possible. They had one crucial tool at hand to do so: the Treaties granted the Common Assembly full decisional power over its own Rules of Procedure. Thus, the early MEPs could shape the role of their institution according to their self-conception as Euro-parliamentarians, based upon the dominating aim to turn the assembly into a supranational parliament. Accordingly, the MEPs created party groups directly in 1953,<sup>1</sup> and thus organised the Common Assembly's everyday working procedures based on political affiliation, not nationality. Already before the establishment of party groups, the EP's Rules of Procedure foresaw the creation of a number of permanent committees for different political areas, as well as the possibility of establishing temporary committees for specific issues.<sup>2</sup> Strict procedures were set for dealing with Community legislation drafts, despite the Assembly's officially limited influence. In short: the early MEPs tried to make their institution look and work as much like a parliament as possible. On 30 March 1962, "one informal change [...] of major symbolic importance"<sup>3</sup> made the parliamentarians' self-understanding obvious: the Parliamentary Assembly renamed itself the European Parliament – a title that was officially adopted by the Council only with the SEA of 1986.

When analysing the development of the EP<sup>4</sup>, it is crucial to not merely regard

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<sup>1</sup> Cf. Entschliessung über die Einfügung einer Bestimmung hinsichtlich der Bildung von Fraktionen in die Geschäftsordnung, adopted on 16 June 1953 (AC\_AP\_RP!REGL.1953\_AC-0010!53-1953-06-16) and Entschliessung betreffend die Zahl, Zusammensetzung und Zuständigkeit der für eine erfolgreiche Arbeit der Versammlung erforderlichen Ausschüsse, adopted on 10 January 1953 (AC\_AP\_RP!ORGA.1952\_AC-0002!53-janvier0001DE\_0001). Cf. also Forsyth (1964): 35, 70 seqq.

<sup>3</sup> Judge/Earnshaw (2008): 35.

<sup>4</sup> For the sake of better readability, this paper will from this point speak of the European Parliament/EP, 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).

it as the institution described in the Treaties – a misconception of many historians and political scientists alike, leading them to widely ignore the EP before its first direct elections in 1979, which are by many considered the first necessary step towards a truly parliamentary character of the EP.<sup>5</sup> Noteworthy exceptions are, amongst others, the works on the EP by Berthold Rittberger, Ann-Christina L. Knudsen, and Jan-Henrik Meyer who all analyse the evolving impact of the early EP.<sup>6</sup> Today's role of the EP and its swift gain in power over the last decades can indeed not be fully understood without taking into consideration its early years, and particularly its informal behaviour during these years. Below, the most important changes of EP proceedings based on informal/non-treaty based behaviour are outlined, before the EP's emerging power of initiative is analysed in more detail.

- **Frequency of meetings**

The Treaty of Paris, as well as the Treaties of Rome, provided for only one annual plenary session of the EP. From 1953, however, the MEPs met several times per year, reaching an almost monthly frequency (except for a yearly summer break) by the early 1960s. The MEPs' strategy was simple: the Treaty only set the beginning of the annual session – not the end. So at the end of most plenaries, the EP President would not close, but officially interrupt the session, in order to take it up again some weeks later. The higher the frequency of its plenary sessions, the more active the EP could evidently be: although the bulk of parliamentary work always took place in the EP's party groups and committees, the plenary sessions were crucial for the adoption of resolutions, as well as for the official dialogue with Council and Commission (through invitation of their respective members to speak during the meetings, Question Time etc.).

- **Giving the EP a party-based structure**

The MEPs introduced specific procedures with the aim to ensure that the EP would not merely be a place of exchange of national interests, but a truly supranational institution. One of the most crucial measure consisted in the creation of party groups, and the organisation of the everyday work based on party affiliation instead of national background. A decisive moment for this self-imposed (re-)distribution of MEPs was the plenary debate on the second general report of the High Authority in May 1954: in this debate, MEPs intervened for the first time “*comme porte-parole des groupes pour exposer le point de vue de chaque groupe sur certains aspects de la politique de la Haute Autorité*”<sup>7</sup>. This had occasionally happened before, however

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<sup>5</sup> 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, only superficially (if at all) examining the EP's changing behaviour. Cf., amongst others, Gfeller et al. (2011); Doutriaux/Lequesne (2007); Corbett et al. (2003); Kreppel (2002).

<sup>6</sup> Cf., amongst others, Rittberger (2014 and 2003); Knudsen (2014, 2009, and with Rasmussen 2008); and Meyer (2014).

<sup>7</sup> Kapteyn (1962): 86.

only on procedural issues, when discussing the status of the party groups, or when very vaguely speaking about general political lines. From mid-1954, the MEPs structured whole debates as well as their individual arguments according to party-group affiliation.

The EP's party groups swiftly became the basis not only for the order of speeches during plenary debates, but indeed the entire parliamentary work, not least through the establishment of party-group secretariats and the allocation of funding to the groups. Furthermore, the composition of the EP's committees was swiftly adapted to the balance of political groups. Initially, MEPs were to be assigned to committees based on their nationality, while the MEPs' party affiliation was not considered in the distribution. However, the party groups soon got a say in the choice of committee members, in order to safeguard an even composition. Thus, the main basis for the MEPs' distribution became the relative strength of the party groups – although nationality still played a certain role, as it was attempted to avoid major imbalances.<sup>8</sup>

Every committee member was allowed to name one substitute, able to replace the MEP when her or she could not attend a committee meeting. The choice of the substitute was entirely disconnected from nationality – substitutes only had to come from the same party group as the MEP for whom they were stepping in. The party affiliation was also crucial for the choice of chair of a committee, who was officially elected by the committee itself. However, in reality, the party groups agreed in advance whom to put forward for which committee chair, again in order to keep a balance. The position of rapporteur – the second very important and influential position (arguably even more influential than the committee chair) – was equally assigned “with little regard for nationality”<sup>9</sup>, and instead based on party affiliation.

- **Development and formalisation of habits**

The foundation of the EP in 1952 was, to a certain extent, an experiment. It was not the first international assembly of national parliamentarians; however, it was the most powerful one at the time, and was part of a Community with a so far unknown extent of supranational responsibility and regulation. Based on the limited and relatively vague Treaty provisions concerning the EP, its first members realised that it was up to them to shape their institution, and to transform it into what most of them intended it to become eventually: a fully-fledged supranational parliament. In order to come closer to that target, the early MEPs behaved according to what the Treaties allowed (i.e., did not restrict), rather than what they specifically provided for the institution.<sup>10</sup>

From the beginning, the MEPs understood it as their task – seeing themselves as representatives of the Communities' citizens – to give their opinion to basically all major projects of Community legislation and action. They also made it a part of their mandate to point out lacks of existing Community and national legislation (if concerning Community matters), as well as situations requiring political action. In the area of social policy, the majority of MEPs saw it as their vocation to help to improve

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<sup>8</sup> Cf. Schierwater (1961): 39, and Hagger/Wing (1979): 120 seqq.

<sup>9</sup> Stein (1959): 236.

<sup>10</sup> Cf. Roos (2017).

the citizens' living and working conditions, as provided in all founding Treaties.<sup>11</sup> In order to get involved in Community action, the EP submitted its opinions via reports and resolutions to all major Commission initiatives and proposals, no matter whether the Commission or the Council asked the EP to do so. While the EP acted widely on its own initiative during the 1950s, from the 1960s onwards consultations by both Commission and Council increased remarkably; by the late 1960s, almost all EP resolutions on Commission proposals at least in the area of social policy began with the words '*having been consulted...*'.

Consultation did, of course, not automatically lead to legislative influence. In order to make it harder for the Commission and the Council to ignore its amendments and proposals, the EP asked for justification concerning changes of legislative proposals, and followed as closely as its limited resources allowed how legislative drafts were revised. Particularly the Commission, which showed a strong interest in close co-operation with the EP, answered such demands increasingly often from the late 1950s. In 1973, that habit was formalised: the Commission officially agreed to henceforth justify whether or not it accepted EP amendments to its legislative proposals.<sup>12</sup> The Council, over whom the EP had no formal power of control whatsoever, based on the Treaties,<sup>13</sup> was more reluctant to allow such accountability to develop.

While resolutions were the MEPs' most powerful tool to exert influence on Community legislation, the Euro-parliamentarians grew increasingly fond of questions as an instrument both of control and of initiative. As mentioned before, the Treaties gave the MEPs the right to put questions to the Commission, but not to the Council. However, the Council agreed in 1958 to answer both written and oral EP questions.<sup>14</sup> To establish some form of pressure on Council members in order to make them answer, it was decided that if the Council would not provide a response within two months, the respective questions would be published unanswered in the Official Journal. In 1973, the EP additionally established a Question Time as inherent part of almost each plenary session, in which the MEPs could put questions to Council and Commission members, and could ask follow-up questions. Most questions were not majorly used to gather information – amongst other reasons because Commissioners went more into detail during non-public meetings of the EP committees; official answers to parliamentary questions, however, usually had the depth of press releases. Through their inquiries, however, the MEPs could point to needs for Community action, could criticise delays and ask for justification.

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<sup>11</sup> Cf. Art. 2 ECSC, Art. 2 EEC, and Art. 1 Euratom.

<sup>12</sup> Cf. Dutoit (2009): 76.

<sup>13</sup> The only control MEPs could exercise over the Council members was through their home parliaments: as national parliamentarians, they could exert pressure on their respective national ministers.

<sup>14</sup> 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](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.

## The EP's emerging power of initiative

The Members of the early European Parliament rarely asked for an overall right of initiative for their institution. A resolution from 5 July 1972 on an upcoming summit of the member states' heads of state and government, for instance, demanded a considerable range of new or strengthened parliamentary powers for the EP, notably co-decision and co-legislative rights as well as stronger budgetary powers.<sup>15</sup> The right of initiative, however, was not even mentioned. While a resolution on European Union from July 1975 did also not mention the power of initiative directly, it implied it when stating that Community decisions could be based "where appropriate on a proposal from Parliament"<sup>16</sup>, which would then be taken up by the Commission who submitted a draft proposal accordingly.

If the parliamentary power of initiative was demanded, the MEPs usually embedded that demand in the discussion of a specific issue. A noteworthy document is a report of 4 May 1979 on aspects of the Common Agricultural Policy: the preparations of this report seemingly triggered quite fundamental debates on the powers the EP had at the time, and should have in the future – clearly with an eye on the upcoming direct elections. In this report, the EP's right of initiative features prominently. The report even proposed a procedure to establish such a right:

*"It would therefore be desirable for the European Parliament gradually to acquire a right of initiative. To this end it might be suggested that, without amending the Treaty, Parliament should annex to its resolutions proposals for regulations, directives or decisions which the Commission would undertake to submit to the Council in the same way as its own proposals."*<sup>17</sup>

The motion for an EP resolution that was included in the report asked for binding rules for the Commission to act on own-initiative proposals from the EP's Committee on Agriculture.<sup>18</sup> Such explicit calls for a power of initiative were, however, rather rare. For most of the years prior to 1979, the power of initiative was hence not as prominently advocated by the EP as, for instance, direct elections and a co-legislative position on an equal footing with the Council. Instead, the power of initiative can be considered a power the early MEPs aimed for through actions rather than demands. They did so from the beginning of the EP's existence: from the early 1950s, the MEPs strove for a broader agenda than the mere approval or critique of the executive's (first the High Authority's, later the Commission's) actions after they had been adopted.

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<sup>15</sup> Cf. Entschliessung zur nächsten Gipfelkonferenz der Staats- bzw. Regierungschefs der Mitgliedstaaten der Europäischen Gemeinschaften, adopted on 5 July 1972 (PE0\_AP\_RP!POLI.1961\_A0-0073!720001DE\_0001).

<sup>16</sup> Resolution on European Union, adopted on 10 July 1975 (PE0\_AP\_RP!POLI.1961\_A0-0174!750001EN\_0001).

<sup>17</sup> Cf. Report drawn up on behalf of the Committee on Agriculture on the conclusions to be drawn from the proceedings of the Seminar held by the Committee on Agriculture in Echternach, 4 May 1979 (PE0\_AP\_RP!AGRI.1958\_A0-0128!790010EN\_092724), p. 104.

<sup>18</sup> Cf. *ibid.*, p. 15. Interestingly, the adopted Resolution on the conclusions to be drawn from the proceedings of the Seminar held by the Committee on Agriculture in Echternach (PE0\_AP\_RP!AGRI.1958\_A0-0128!790001EN\_0001) replaced 'Committee on Agriculture' by 'Parliament', thus asking for a more general right of initiative for the EP.

Since particularly the ECSC Treaty provided for few other tasks, the MEPs had to act on their own initiative in order to get involved in Community decision-making. The aim to get involved, and to participate in Community legislation, can be explained notably by the ideas and motivations driving most MEPs at the time to take up the double mandate of national and Community parliamentarians: their idea of an integrated Europe entailed a supranational institutional framework, of which a supranational parliament was an inherent part. Hardly anyone went to Strasbourg and Luxembourg looking for interparliamentary exchange – other fora existed for that, notably the Assembly of the Council of Europe. The EP, however, was by many considered an experiment in true supranationalism.

In the area of social policy, the ECSC offered a lot of potential for initiative: it contained only very few, often vague and limited social provisions, which allowed the EP to get involved on own-initiative.<sup>19</sup> Particularly the second half of the 1950s, however, gave impetus for Community action in the socio-political field: the coal crisis of the late 1950s caused a rise of unemployment in the Community industries, creating the need for re-training and re-settlement schemes. In addition, a series of mine accidents led to a strong demand for the regulation of industrial safety, as well as the transferability of social benefits, notably invalidity, widows' and orphans' pensions.<sup>20</sup> While a number of bilateral agreements among the member states, pre-dating the ECSC, contained provisions to deal with at least a part of the arising problems, the EP debates, reports and resolutions of the time show that the MEPs envisaged a considerably broader Community social dimension consisting of minimum standards and aid schemes that were regulated at (supranational) European, not intergovernmental level. Accordingly, the MEPs undertook their own research and study trips, followed by quite detailed reports and resolutions proposing Community legislation or action.<sup>21</sup> The underlying aim of the EP's social-policy initiatives was the improvement of the European citizens' living and working conditions – which the MEPs considered a crucial element of Community policy, provided by all three founding Treaties.<sup>22</sup> That such own-initiative reports and resolutions were supported by the EP as a whole is clearly visible: the majority of socio-political decisions in the EP was made unanimously until the early 1960s. Committees adopted most reports unanimously up to the direct elections in 1979. This

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<sup>19</sup> Forsyth (1964: 132) mentions transport policy besides social policy as an area with comparably vague Treaty provisions; he says that the EP used its right of initiative with considerable success in these two policy areas.

<sup>20</sup> Events – in particular accidents and catastrophes – repeatedly led to EP initiatives: for the area of environmental policy, Meyer (2014) names an accident leading to the pollution of the Rhine in the early 1970s as trigger to the first EP report on the matter. Jacques Santer, Luxembourgish Christian-Democratic MEP from 1974 to 1979, said in an interview conducted by the author that the various crises in the 1970s led to successful EP initiatives in the area of social policy, pushing the Commission to propose social action and regulations.

<sup>21</sup> Cf., amongst others, Report by the Committee on Social Affairs on the study trip of a board of enquiry from 14 to 21 February 1954 for the preparation of principles of the housing policy, 1 May 1954 (AC\_AP\_RP!ASOC.1953\_AC-0006!54-mai0010DE\_00001000); Report by the Committee on Social Affairs on problems of the assimilation of workers in the industries of the Community, 1 June 1956 (AC\_AP\_RP!ASOC.1953\_AC-0026!56-mai0010DE\_00001000); Resolution on the results of the study trip to the countries of the Community for the examination of specific problems as regards the free movement of workers, adopted on 23 January 1964 (PE0\_AP\_RP!ASOC.1961\_A0-0118!630001DE).

<sup>22</sup> Cf. Art. 2 ECSC, Art. 2 EEC, and Art. 1 Euratom.

unanimity was, on the one hand, based on the shared overall convictions and aims of the MEPs for an integrated social Europe. Particularly the first enlargement changed that, through which a number of British and Danish MEPs with a somewhat more intergovernmental idea of Europe entered, together with French Communists (who were until then blocked from entering the EP, as were Italian Communists until 1969). On the other hand, unanimity was a consciously used strategic tool: the MEPs hoped that by presenting their position united and undivided, they would make a stronger impression on Council and Commission as an institution. As the EP gained power and was more frequently involved in legislation, notably throughout the 1970s, controversy – and with it the parliamentary character of EP debates – increased, since unanimity was no longer perceived to be necessary in order to be heard. The decrease of unanimity in decision-making did, however, not imply a decrease of adopted own-initiative reports and resolutions in Parliament. The following section will shed light on the tools the MEPs used prior to 1979 in order to initiate Community action and, if possible, legislation.

### **Case-based analysis: how did the EP initiate Community legislation or action?**

The EP's power of initiative remained semi-formal over the entire period prior to 1979, and indeed for some time thereafter: only the Treaty of Maastricht officially granted the EP that power. While the EP clearly went beyond Treaty provisions in the adoption and promotion of own-initiative action, it did not breach any Treaty article. In fact, the EEC Treaty contained one article that might be understood as a very vague right of initiative in the area of social policy: Art. 122 EEC gave the EP the right to invite the Commission to draw up reports on specific social action. This can clearly not be interpreted as an instrument to initiate legislation, and is hence far from a parliamentary power of initiative. The article did, however, allow the EP a certain power of agenda setting. Combined with the openness and goodwill that the Commission usually showed towards the EP, such a provision was an important aspect in the path-dependent evolution of the EP's power of initiative. Over the time under consideration here, the EP did not ask for a Treaty change in order to formally grant the EP the power of initiative – indeed, it did not consider that necessary, since the right of initiative already existed in the MEPs' eyes. The EP Resolution on European Union of 10 July 1975 even specifically emphasised “that these adjustments [...to the EP's powers] do not involve formal modifications to the existing treaties”<sup>23</sup>, since the EP had sufficient tools at hand in order to propose action or legislation; the problem was merely that Council and Commission were not obliged to take the proposals into consideration.

In order to increase their chances of being heard, many MEPs made sure to know very well the Treaty basis of the issues they were dealing with.<sup>24</sup> They knew very well that there was no point in preparing initiatives if they were not compatible

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<sup>23</sup> Resolution on European Union, adopted on 10 July 1975 (PE0\_AP\_RP!POLI.1961\_A0-0174!750001EN\_0001).

<sup>24</sup> Cf. interview with Charles McDonald.

with the Treaties. Charles McDonald, an Irish Christiana-Democratic MEP (1973-1979), said in an interview that he and his colleagues furthermore attempted to connect their initiatives to issues that were already on the agenda, since also that increased the success rate. A crucial part of the work was done not only by the MEPs, but also by the EP's library service and the party groups' members of staff. Fionnuala Richardson, who worked for the Socialist Group in the 1970s and 1980s, said in an interview that she prepared a number of initiatives together with MEPs, and part of the process was to check the compatibility with the Treaties. Indeed, she indicated that some initiatives were withheld within Parliament because a committee chairman or other influential MEP would not consider a proposal to be in agreement with the Treaties. The EP did not want to waste resources and the attention of Council and Commission on issues that had too little a chance of being successful.

One of the strongest tools in the MEPs', and particularly the EP committees', hands to push for action and legislation were parliamentary reports. Together with resolutions and parliamentary questions, reports ranked among the repertoire of political instruments the MEPs had at hand. The analysis of such reports, resolutions and questions with no connection to a particular Commission proposal offers insights 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. A number of examples, in addition to the above-mentioned, are discussed below. Before looking at such examples, notably a selection of successful ones, it should however be noted that besides such formal tools, MEPs also had one crucial opportunity of initiating Community action, or significantly shaping legislative proposals, had an entirely informal level: Commissioners and members of Commission staff regularly came to EP committee meetings, which were at the time non-public.<sup>25</sup> Several of the MEPs interviewed for this research congruently indicated that in such committee meetings Commission representatives would ask for the MEPs' opinions on issues that were intended to become legislative proposals, but that had not yet been drafted.<sup>26</sup> Equally, the secure setting of non-public committee meetings allowed for very open and honest discussions of the MEPs' own ideas, results of their study trips and experiences from their home constituencies with a potential interest and need for regulation for the entire Communities. Since hardly any minutes of committee meetings from that time have been archived, it is close to impossible to trace such evolving initiatives. Unfortunately, while several MEPs recalled that practice, none could think of an example. Jean-Joseph Schwed, a member of EP staff, indicated in a 1978 edited volume on 'The European Community after Twenty Years' that Parliament would regularly provide political stimulus through 'discretely' bringing its own ideas to the EC agenda.<sup>27</sup> Even more particularly, Claude Lassalle (1964) – *administrateur*

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<sup>25</sup> Several of the interviewed MEPs said that there was virtually no committee meeting without a Commission representative present. Cf. i.a. interviews with Arie van der Hek (19 October 2016, phone interview), Colette Flesch (13 October 2016, Luxembourg-Ville), John Corrie (21 September 2016, phone interview), Werner Zywiets (21 September 2016, phone interview).

<sup>26</sup> Cf., amongst others, interview with Arie van der Hek and Vera Squarcialupi.

<sup>27</sup> Cf. Schwed (1978): 40.

*principal* at the EP – described the early legal influence of the MEPs:

*“Le texte de la proposition de la Commission exécutive, premier élément, ne constitue jamais une nouveauté pour l’Assemblée. La collaboration avec la Commission exécutive permet aux commissions compétentes de l’Assemblée, de débattre de l’orientation générale de la politique de l’exécutif, avant que ce dernier la concrétise par le dépôt d’une proposition.”*<sup>28</sup>

Resolutions, reports and questions and their effects are somewhat easier to analyse – however, they rarely triggered immediate Community action. Instead, their effect has to be analysed from a long-term perspective. The German Social-Democrat MEP Lothar Ibrügger, for instance, pointed to EP reports and resolutions on waste separation which initiated the Community discourse on the matter, and for which he was the responsible rapporteur during his mandate as MEP in the two years prior to direct elections.<sup>29</sup> Although legislation was adopted only in the 1990s, Ibrügger saw the EP as the agenda setter on the matter. It should be emphasised that while own-initiative actions constituted a considerable part of the EP’s output, Parliament had not the staff and thus the necessary resources to excessively use a right of initiative.<sup>30</sup> This applies particularly to the 1970s, when Parliament was with increasing frequency consulted on Commission proposals – after all, consultation offered a much better chance at influencing Community legislation than EP initiatives on issues which to discuss Commission and Council had not yet agreed. The MEPs continued, however, to execute their perceived right of initiative. While it should be emphasised that the majority of EP initiatives did not lead to the desired results, several did have an effect, and were acknowledged by both the Commission and the Council as justified. The before-mentioned report of 4 May 1979 on the Common Agricultural Policy shows that: it includes a statement by Niels Anker Kofoed, Danish Minister of Agriculture, as well as former MEP (1975-1978) and in that role chairman of the EP Committee on Agriculture. Kofoed “confirmed the fact that the reports of Parliament rarely ascended to ministerial level. However [...] [w]hen the quality of the work was high, the Parliament would be listened to.”<sup>31</sup> In the same report, the German Socialist MEP Willi Müller remarked that “the right of initiative [of the EP] already existed by means of the own-initiative report procedure”.<sup>32</sup> A case of successful own-initiative reports is the area of environmental policy: two EP reports of 1970 and 1971 first led the Commissioner for Industry Altiero Spinelli (later an MEP in the Communist Group) to set up a working group with the task to prepare an action plan on environment in February 1971, which was then followed by Commission communications to the Council in July 1971 and March 1972, triggering indeed

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<sup>28</sup> Lassalle (1964): 34 seq. Cf. also Gfeller et al. (2011): 11.

<sup>29</sup> Cf. interview with Lothar Ibrügger.

<sup>30</sup> Cf. Sasse (1976): 49.

<sup>31</sup> Cf. Report drawn up on behalf of the Committee on Agriculture on the conclusions to be drawn from the proceedings of the Seminar held by the Committee on Agriculture in Echternach, 4 May 1979 (PE0\_AP\_RP!AGRI.1958\_A0-0128!790010EN\_092724), p. 37.

<sup>32</sup> Cf. *ibid.*

Community action in the area of environmental policy.<sup>33</sup> During the 1970s crises, the EP pushed the Commission in several reports and resolutions to not only consider the economic issues of the time, but to equally propose solutions to the social problems. According to Jacques Santer, Luxembourgish Christian-Democratic MEP from 1974 to 1979, the EP's insistent demanding, amongst others for interim arrangements for unemployed, had a significant impact on the so-called 'Davignon Plan' (1977) which had a strong social component, particularly concerning unemployed. "Even though the EP was not entitled to take a legislative initiative, or to push a directive through, the Commission was compelled to take the initiative"<sup>34</sup> based on EP demands.

For EP initiatives with relatively swift consequences, the area of equality policy also offers a number of cases, particularly during the 1970s – which shows that despite the overall higher percentage of EP output based on consultation, own-initiative action continued to constitute an important part of the (M)EP's work. Given the limited number of Community legislative projects concerning women prior to 1979, which stood in imbalance to the importance the EP attached to gender equality, MEPs were looking for ways to initiate action in favour of female workers other than through resolutions and reports. If wanting to direct the Commission's attention to an as yet undiscussed issue, the most successful tool available to the MEPs in the area of equality policy was the parliamentary question. It should be noted that the question was not intended by the Treaties to be an instrument of initiative; but a tool of information and control.<sup>35</sup> Nevertheless, the MEPs swiftly learned to adapt it to serve their own purposes. While there exists no case prior to 1979 in which a parliamentary question triggered a legislative initiative concerning women by the Commission, such questions did produce visible outcomes. Firstly, they encouraged the Commission to conduct and publish a number of surveys and studies, thus helping to uncover deficiencies and situations calling for action.<sup>36</sup> Secondly, MEPs pointed out discriminatory practices or other situations requiring change, such as the case of a special card given to female French citizens, either pregnant or accompanied by small children. This card allowed these women to skip queues in offices, public transport and shops – and was not issued to women who did not have the French citizenship, including migrants from other Community countries, unless their children were French citizens. During Question Time on 8 May 1979, the Italian Communist MEP Vera Squarcialupi asked the Commission whether it was aware of this case of discrimination. Dutch Commissioner Hendrikus Vredeling – a former MEP with one of the longest mandates prior to 1979 (1958-1973) – answered in the affirmative, but

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<sup>33</sup> Cf. Meyer (2014): 235 seqq.

<sup>34</sup> Jacques Santer in an interview conducted with the author, translation by the author. Original quote: "Obschon das EP nicht befugt war, eine legislative Initiative zu ergreifen oder eine Direktive durchzusetzen, war die Kommission genötigt, [auf Grundlage der EP-Forderungen] die Initiative zu ergreifen."

<sup>35</sup> Cf. Art. 23 ECSC, Art. 140 EEC, Art. 110 Euratom.

<sup>36</sup> Cf. i.a. written question no. 30/74 by Mrs Lulling, March 1974 (PE0\_AP\_QP!QE\_E-0030!740040FR\_185482); written question no. 806/75 by Mr Adams, February 1976 (PE0\_AP\_QP!QE\_E-0806!750020DE\_197461); written question no. 7/66 by Mrs Lulling, March 1966 (PE0\_AP\_QP!QE\_E-0007!660010DE\_094071); written question no. 37/74 by Mrs Lulling, April 1974 (PE0\_AP\_QP!QE\_E-0037!740040FR\_185522); written question no. 349/78 by Mr Radoux, June 1978 (PE0\_AP\_QP!QE\_E-0349!780040FR\_215245); written question no. 85/74 by Mrs Goutmann and Mr Marras, April 1974 (PE0\_AP\_QP!QE\_E-0085!740040FR\_185796).

added that the responsible French authorities had not yet reacted to a letter he had sent them on the issue. The MEP's question, he gratefully acknowledged, would give him the opportunity "to remind the French authorities of the letter I addressed to them on this case of alleged discrimination"<sup>37</sup>; and if still no reaction followed, he would consider initiating an infringement procedure against the French government. In his answer, Vredeling showed a close connection to and knowledge about the EP, based on his own experiences as MEP: he indirectly invited further parliamentary questions by announcing that "[t]he Commission will therefore remain vigilant where cases of discrimination, such as this one, are brought to its attention, in so far as they are at variance with the principles of Community law."<sup>38</sup> Similarly, Vredeling promised during a Question Time in June 1977 to look into cases of discrimination based on sex concerning citizenship, "preventing many women from taking employment outside their country"<sup>39</sup>, particularly in the UK and in Denmark, as pointed out in a question by Elaine Kellet-Bowman. The Danish MEP Clara Edele Bengta Kruchow even gave Vredeling a potential legislative tool for a Commission reaction, proposing that he should take into consideration the Directive 76/207/EEC<sup>40</sup> on equal treatment regarding access to employment, vocational training, promotion and working conditions, since the case concerned employment opportunities. Particularly in the area of family law, which was strictly beyond Community competence and fully in the member states' hands, MEPs repeatedly pointed to possibilities of how the Commission could act in order to remove discrimination without having to go beyond Community competences, mainly by reference to discrimination based on sex or nationality, prohibited by the Treaties as well as later subsequent Community law.<sup>41</sup>

While the MEPs' influence in the above-mentioned situations mostly remained indirect, they managed to have a significant impact through questions on the working conditions of female Community staff. In June 1976, for instance, Baroness Doris L. Fisher of Rednal pointed to a job advertisement for "one young Secretary-General, designated male, assisted by one secretary, designated female"<sup>42</sup>, and asked the Commission "to look seriously at its own working"<sup>43</sup> in terms of equality in employment. Commissioner Hillery answered that he would not be able to directly explain this concrete issue without inquiring about the background in Brussels, and added:

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<sup>37</sup> Speech by Commissioner Vredeling during the Question Time on 8 May 1979 (PE0\_AP\_DE!1979\_DE19790508-109900EN\_9319665).

<sup>38</sup> Ibid.

<sup>39</sup> Question No 10 by Elaine Kellet-Bowman during Question Time on 14 June 1977 (PE0\_AP\_QP!QH\_H-0102!770015EN\_01387305).

<sup>40</sup> Cf. Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31976L0207>, last visit 29 April 2017).

<sup>41</sup> Cf. i.a. question by Mrs Caretoni Romagnoli during Question Time on 4 April 1974 (PE0\_AP\_QP!QH\_H-03-AV1!740015EN\_01382919); question by Mr Thornley during Question Time on 11 December 1974 (PE0\_AP\_QP!QH\_H-15-DEC!740015EN\_01383453); written question no. 826/77 by Mrs Dahrlertup, Mrs Dunwoody and Lady Fisher, December 1977 (PE0\_AP\_QP!QE\_E-0826!770040FR\_209277); written question no. 61/78 by Mr Kavanagh, March 1978 (PE0\_AP\_QP!QE\_E-0061!780040FR\_213090).

<sup>42</sup> Speech by Lady Fisher of Rednal during Question Time on 17 June 1976 (PE0\_AP\_DE!1976\_DE19760617-029900EN\_9313903).

<sup>43</sup> Ibid.

*“I would be grateful if some Member would put down a question so that we might be able to give a full answer at some time.”<sup>44</sup>*

This shows that MEPs’ questions could indeed trigger action in the Commission. That is even more obvious in a case of combined questions: Community staff were able to claim an allowance for living abroad if working in an institution in another country than that of their origin. This allowance, however, was until the early 1970s connected to whether or not the potential recipient was head of the household. Married women were *per se* not counted as such, and hence did not receive the allowance. In October 1970, the Luxembourgish Socialist MEP Astrid Lulling brought this issue to the Commission’s attention, asking whether it would be correct that a male German official marrying a wife with residence in Belgium would still get the allowance – because he would remain the head of the household – while a female German official marrying a Belgian resident would get the allowance no longer, because she would no longer be considered head of household when she was no longer single.<sup>45</sup> In its answer to this question, the Commission saw no breach of Art. 119 EEC on equal pay for equal work – to which Lulling had referred – since a female official could regain the allowance if the Commission acknowledged that she indeed remained head of household. The Commission admitted, however, a difference in treatment based on the officials’ sex.<sup>46</sup> That prompted Lulling to ask in a follow-up question whether the Commission would be willing to revise the Community Staff Regulations, given that in several member states the category ‘head of household’ would have no impact on rights and duties of a spouse, and that other member states would currently be in the process of removing that category altogether.<sup>47</sup> Here, Lulling’s questions obtained their first results, as the Commission answered that the responsible office would currently examine legal provisions in the member states, based on which the Commission would then consider a revision of the Staff Regulations.<sup>48</sup> Once more, Lulling submitted a follow-up question, this time together with (then-)MEP Vredeling, asking what result the Commission had come to after studying the situation in the member states.<sup>49</sup> The Commission answered that it was currently examining the possibility of a proposal to the Council for an amendment of the Staff Regulations.<sup>50</sup> Indeed, a draft regulation was submitted to the EP in

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<sup>44</sup> Ibid., second speech by Commissioner Hillery.

<sup>45</sup> Cf. schriftliche Anfrage Nr. 331/70 von Fräulein Lulling an die Kommission der Europäischen Gemeinschaften, October 1970 (PE0\_AP\_QP!QE\_E-0331!700010DE\_149148).

<sup>46</sup> Cf. Antwort auf die schriftliche Anfrage Nr. 331/70 von Fräulein Lulling (PE0\_AP\_QP!QE\_E-0331!700050DE\_149159).

<sup>47</sup> Cf. schriftliche Anfrage Nr. 520/70 von Fräulein Lulling an die Kommission der Europäischen Gemeinschaften, February 1971 (PE0\_AP\_QP!QE\_E-0520!700010DE\_154150).

<sup>48</sup> Cf. Antwort auf die schriftliche Anfrage Nr. 520/70 von Fräulein Lulling (PE0\_AP\_QP!QE\_E-0520!700040DE\_154159).

<sup>49</sup> Cf. schriftliche Anfrage Nr. 397/71 von Herrn Vredeling und Fräulein Lulling an die Kommission der Europäischen Gemeinschaften, November 1971 (PE0\_AP\_QP!QE\_E-0397!710010DE\_159115).

<sup>50</sup> Cf. Antwort auf die schriftliche Anfrage Nr. 397/71 von Herrn Vredeling und Fräulein Lulling (PE0\_AP\_QP!QE\_E-0397!710040DE\_159130).

November 1972 on request of the Council<sup>51</sup>; and three months later, the Council adopted Regulation (ECSC, EEC, Euratom) No 558/73, which removed the category ‘head of household’ entirely, renaming the allowance simply ‘household allowance’.<sup>52</sup> The eventual change of the regulation cannot be solely attributed to Astrid Lulling’s questions: the Council regulation refers to an ECJ ruling in the case of a Commission official who lost her claim to the allowance when marrying.<sup>53</sup> The initial impulse, however, came from the Lulling questions, the first of which was submitted eight months before the court case 32/71 was brought before the ECJ. It is likely that the official who took her case to the ECJ was first made aware of the potential discrimination by Lulling’s questions.

Usually, one single MEP stood behind a question; at times also two or more – 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 Hendrikus Vredeling, at some point nicknamed ‘Vrageling’ for the hundreds of parliamentary questions he alone asked during his mandate.<sup>54</sup> Naturally, the most active parliamentarians had the highest impact on the EP’s perception and image. Yet, 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.

Prior to the first direct elections, the MEPs had one crucial tool at hand which they later lost: they could exert pressure on members of the Council not only at Community level, but equally at home in the national parliaments, since all of them were elected national parliamentarians. This double mandate gave the MEPs access to some control over the national ministers, which the EP did not have over the Council as an institution. Lothar Ibrügger, German Social Democrat and MEP from 1978 to 1979, described in an interview one case from the area of transport policy: in the pursuit of the creation of a unified airspace of the Community, the EP Committee on Transport organised a public hearing in Paris – Ibrügger mentioned that it was quite usual for committees to have such hearings in cities all over the member states as a first step of initiative, in order to gain attention. To this meeting, the committee invited representatives from politics and the economy; as a consequence, the committee sent a demand for common action to the Council and the Commission.

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<sup>51</sup> In fact, by Council President Theodor E. Westerterp – a former Dutch Christian-Democratic MEP (1967-1971). Cf. letter from Westerterp to Walter Behrendt, President of the EP, 8 November 1972 (PE0\_AP\_RP!BUDG.1967\_A0-0224!720020DE\_006305).

<sup>52</sup> Cf. Regulation (ECSC, EEC, Euratom) No 558/73 of the Council of 26 February 1973 amending Regulation (EEC, Euratom, ECSC) No 259/68 fixing the Staff Regulations of the Officials and Conditions of Employment applicable to other Servants of the European Communities ([http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.1973.055.01.0001.01.ENG&toc=OJ:L:1973:055:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.1973.055.01.0001.01.ENG&toc=OJ:L:1973:055:TOC), last visit 19 December 2016).

<sup>53</sup> Cf. ECJ case C-32/71 – Bauduin v Commission (<http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=32/71&td=ALL>, last visit 19 December 2016).

<sup>54</sup> Westlake 1990: 4.

After some time, when the Council did not react in the way the MEPs had hoped, the committee members developed a list of questions which they took to their national parliaments, simultaneously asking their ministers for justification for their inactivity across all member states, which the ministers had to offer at home – though not to the EP. The MEPs then took the ministers’ answers back to the committee and compared them, in order to see where the differences and problems among the countries would be. Consequently, the EP proposals were updated. If the member states’ governments continued to refuse to act, the MEPs threatened to take the Council to court for failure to act, as allowed by Art. 175 EEC. In the area of transport policy, the EP indeed won such an action against inactivity versus the Council, following which transport regulations were adopted, though only in the 1980s.

### **The justification of the EP’s power of initiative**

The MEPs felt that their institution had a right to a power of initiative based mainly on their understanding of the EP as a supranational parliament, long before it was formally even close to being such a parliament. However, MEPs named at times also more particular justifications for the need to grant the EP the possibility to initiate legislation. The ‘Empty Chair’ crisis of 1965, for instance, was perceived as having triggered a vacuum since the Commission consequently “relinquished the right of initiative conferred on it under Articles 149 and 155 of the EEC Treaty”<sup>55</sup>, and had turned into “a kind of secretariat for the Council”<sup>56</sup>, only submitting to the Council “proposals that the latter is likely to approve”<sup>57</sup>. It was now by some MEPs considered the EP’s task to fill that vacuum. The majority of MEPs clearly had a teleological conception of European integration in general, and the development of the EP in particular: it was to gain more and more parliamentary powers, even though the MEPs did not all agree on the final stage of an integrated Europe – the scale of their ideas ranged from a federation to a not fully defined concept of unique co-operation among the member states with a supranational institutional superstructure consisting of a European government, parliament and court.<sup>58</sup> A strengthened, more parliamentary EP was hence a shared ambition.

This ambition was not kept secret by the MEPs, as the above-mentioned cases show. Instead, they acted openly and proactively according to their aims. This activist behaviour got a different echo from the two institutions to which it was first and foremost addressed: the Commission welcomed and supported the EP’s general striving for more parliamentary powers. As Meyer demonstrates for the area of environmental policy, it was particularly the Commission’s openness to EP proposals

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<sup>55</sup> Report drawn up on behalf of the Committee on Agriculture on the conclusions to be drawn from the proceedings of the Seminar held by the Committee on Agriculture in Echternach, 4 May 1979 (PE0\_AP\_RP!AGRI.1958\_A0-0128!790010EN\_092724), p. 103. Cf. also written question no. 603/71 by Hendrikus Vredeling to the Commission (PE0\_AP\_QP!QE\_E-0603!710010DE\_161159).

<sup>56</sup> Report of 4 May 1979, p. 96.

<sup>57</sup> Ibid., p. 103.

<sup>58</sup> The statements from the different party groups of the EP submitted as answers to a questionnaire in the preparation of a 1975 EP report on European Union offer some insight into different ideas of the eventual goal of European integration (archive files with the number PE0\_AP\_RP!POLI.1961\_A0-0174!75...).

that included Parliament in agenda-setting: “the Commission, which as the proposer of EC law was the formal agenda-setter anyway, was a willing cooperation partner in creatively framing issues in a way that they would fall within EC competences.”<sup>59</sup> That openness to the EP was, of course, not wholly selfless, nor had it as sole motivation the aim to further integration, although that did play a significant role. The Commission itself gained through a strengthened EP: on the one hand, its proposals and communications had more weight if having the EP’s support, thus improving the Commission’s bargaining position towards the Council. On the other hand, though having more staff than the EP, the Commission still relied on receiving information about potential need for Community action. Through the MEPs’ national mandates and connection to their constituencies as well as through the EP’s own-initiative study trips and research initiatives, the EP could offer valuable advice and indeed expertise to the Commission. Since both institutions mostly pursued similar aims in terms of, for instance, more social regulation and better guaranteed living and working conditions, the input of one was welcomed by the other. An example of such welcomed expertise was named by the Scottish Conservative MEP John Corrie during an interview: he did election surveillance and study trips in development countries, as member of the EP’s Committee on Development and Cooperation. When seeing that a specific area needed water pumps, he said that he would report that to the Commission, and in the following year the Commission would indeed put forward a proposal to install water pumps in that region. Thus, he felt that the EP had a direct possibility of initiative, which was welcomed by the Commission.

The Council, however, was not quite as interested in the EP’s own-initiative action. Though it consulted the EP with increasing frequency, it preferred to limit EP involvement to those cases which the member states had already agreed to discuss at Community level. While the Council could not do much against the EP’s own-initiative reports and resolutions – other than ignoring them, which it often did – it tried to limit the MEPs’ parliamentary questions. Right when the Council agreed, after the Treaties of Rome, to answer MEPs’ questions, it set the precondition that these questions had to deal with issues already on the Council’s agenda, in order to avoid confrontation with new projects and proposals. Furthermore, the EP was initially not allowed – other than in the case of questions to the Commission – to adopt a resolution directly after and in consequence to an oral question with debate.<sup>60</sup> Thus, the Council wanted to insure that the question was not turned into a tool of extended parliamentary control and influence (which, however, eventually happened).<sup>61</sup>

In order to accommodate the Council’s reluctance, and to still be heard by the member states’ ministers, the EP chose to propose not only Community acts, but also other forms of common action. A unanimously adopted report by the EP’s Committee on Cultural Affairs and Research on the creation of a European sports badge for young people, for instance, called the EP to take the initiative concerning that specific

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<sup>59</sup> Meyer (2014): 241.

<sup>60</sup> Cf. Bieber (1974): 50 ; Stuart (1971): 88 seq.

<sup>61</sup> Cf. Roos (2017).

issue. The report proposed an EP initiative not in the sense of proposing a legislative act, but instead – as a more realistic possibility – an intergovernmental agreement among the member states.<sup>62</sup> The MEPs hoped that such a proposal would meet a favourable reaction, since the EP did not take the role of agenda-setter here, which the Council was so reluctant to allow.

In one more way, the Council hampered the EP's evolving power of initiative: the so-called 'Empty Chair' crisis of 1965 and the 'Luxembourg compromise' in the following year increased the number of unanimously taken Council decisions,<sup>63</sup> 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 'Empty Chair' crisis also changed the Commission's behaviour in terms of initiatives, which now became somewhat more reluctant, as mentioned above. Thus, while remaining the chief ally of the EP, the Commission faced increasing EP critique for acting too slowly, reluctantly, or not at all in the sense the MEPs would have liked to see. Yet, such reluctance on the side of the Commission triggered further EP initiatives, so that the 'Empty Chair' crisis effectively blended in well with the path-dependent development of the EP's power of initiative.

## Conclusion

The EP's evolving power of initiative was a crucial aspect of its development into the supranational parliament it is today. Indeed, the EP's role in the early years of European integration cannot only be measured by its participation and power in the process of legislation, but also by what subjects it could put on the agenda of the other institutions.<sup>64</sup> Through such agenda-setting, the EP gained considerable political weight, since the Commission and also the Council showed an increasing willingness to take EP proposals into consideration, and to involve the EP in legislative procedures from the beginning. The MEPs learned swiftly how to present issues as cross-border and European ones, which were thus best to be addressed at Community level.<sup>65</sup> The tools they used were, on the one hand, tools they knew from their national parliamentary experience: notably reports, resolutions, and questions. On the other hand, the MEPs skillfully used their double mandate, and their influence at different levels of policy-making, particularly the Community, national, and constituency level, in order to gather ideas on the one hand, and to promote their ideas and proposals on the other.

This paper considered not only proposals for legislation as part of the EP's evolving power of initiative, but understood that power more broadly: often, the MEPs pushed for Community action, for Commission involvement, or for the allocation of funding. All such demands set topics on the Community agenda, and

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<sup>62</sup> Cf. Bericht im Namen des Forschungs- und Kulturausschusses über die Schaffung eines europäischen Sportabzeichens, 7 March 1966 (PE0\_AP\_RP!RECH.1961\_A0-0012!660010DE\_001071).

<sup>63</sup> Ludlow 2001.

<sup>64</sup> Cf. di Sarcina (2009): 365 seq.

<sup>65</sup> Cf. Meyer (2014): 236.

based on them, legislative proposals could later be brought forward. Hence, this paper considers also these proposals as crucial part of the EP's evolving power of initiative. While the analysis has mainly focused on the area of social policy, it could also point out that the MEPs behaved similarly in other policy areas, namely in transport and environmental policy. In order to fully establish how, when and under what conditions the EP achieved an effective power of initiative, further research in areas such as economic and monetary policy would be helpful. The cases discussed in this paper show in any case that the EP did not merely make general and vague proposals, but that it aimed to put forward very detailed and particular initiatives. These were usually developed either in the committees or the EP's party groups,<sup>66</sup> or at times also by individual MEPs when being brought forward through parliamentary questions. The analysis has shown that both the impetus for EP initiatives and their acceptance very much depended upon the contemporary circumstances, and on current events. If being able to swiftly react to crises, accidents or catastrophes, the EP had a high chance of being heard by the other institutions, which very likely looked for solutions to the unexpected problems as well.

Importantly, the MEPs did not breach the Treaties, nor did they actively try to change them in order to gain a power of initiative. They considered to have the justification for that power based on some Treaty articles on the one hand, and on their idea of a truly supranational EP with full parliamentary powers on the other. The dominating pro-integrationist understanding that most MEPs shared is hence a key to understanding the swift gain in power of the EP in general, and the evolution of its power of initiative in particular. Obviously, that development must not be understood as a seamless process towards ever more integration – the MEPs faced more setbacks than successes in their attempts to gain legislative influence. Far more EP initiatives were ignored than were turned into action or legislation. Remarkably enough, that did not induce the MEPs to stop trying, so that the institution that was for the first time directly elected in 1979 did only vaguely resemble the assembly provided by the Treaties, being considerably more influential. While most of the Community's citizens, and arguably even several of the MEPs themselves, may not have been aware of that at the time, the knowledge of the EP's informal, semi-formal and finally formal(ised) powers is necessary in order to understand the role and powers of today's European Parliament.

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<sup>66</sup> Cf. interview with Renato Ballardini, who felt that the EP's everyday work was indeed rather structured by own initiatives than by Commission proposals and Council consultations.

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- Anthony Brown (Dublin, 15 February 2017),
- John Corrie (phone interview, 21 September 2016),
- Karen Marie Dahlerup (Copenhagen, 1 April 2017),
- Doeke Eisma (phone interviews, 21 and 27 October 2016),
- Colette Flesch (Luxembourg, 13 October 2016),
- Lothar Ibrügger (Brussels, 18 February 2017),
- Liam Kavanagh (phone interview, 2 September 2016),
- Astrid Lulling (Schiffange, 30 September 2015),
- Charles McDonald (Dublin, 14 February 2017),
- Fionnuala Richardson (Dublin, 14 February 2017),
- Jacques Santer (Luxembourg, 12 September 2016),
- Horst Seefeld (phone interviews, 23 and 24 Februar and 14 March 2017),
- Vera Squarzialupi (Milan, 18 January 2017),
- Dick Taverne (London, 10 November 2016),
- Arie van der Hek (phone interview, 19 October 2016),
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