Deliberation in the European Parliament:
a Curiosity or a Model?

1. Deliberation as Form and Founding of the European Parliament’s Power ..... 3
2. The Specificities of Deliberation within the European Parliament ............... 6
3. Towards an "European" Model of Deliberation?.................................. 10
4. Bibliography.............................................................................................. 15
Deliberation in the European Parliament: a Curiosity or a Model?

Many papers and discourses have tackled the subject of the European Parliament, but their authors have little taken into account a dimension which proves to be essential to the understanding of its functioning and of its powers, that is of the role of its deliberation. Yet it is possible neither to comprehend the evolution of its powers, nor to account for the way in which Members of the European Parliament (MEPs) manage to make up majorities if we disregard the modes and the mechanisms of it’s deliberation. Our hypothesis is that deliberation represents not only the form, but also the founding of the European Parliament’s power. Therefore anyone who takes an interest in restoring the authority of parliaments within the national political systems should take heed of the European Parliament’s organization and functioning.

The purpose of this paper is to show that deliberation represents the basis of the European Parliament’s power on the one hand, and to set out the elements that account for this situation, as well as the ensuing specificities on the other. Thus, we shall be able to envisage the influence of this "model" on national parliaments. And moreover to point out the ways in which the organization of the European Parliament (born from a hybridization of national models) represents a sort of "feedback" for the reflections on parliamentary government.

1 This text represents the outcome of my doctoral research (“The European Parliament as a Deliberating Assembly”, doctoral thesis in Political Science, Paris, University of Paris VIII, January 1998, 735 p.) and of my work for two books (“La délibération au Parlement européen”, Brussels, Editions de l'Université de Bruxelles, end of 1999; “Le Parlement européen”, Paris, Monschrestien, Coll. Clefs). It proposes an analytical view concerning the functioning of this institution rather than a result-oriented empirical analysis. Nevertheless, far from being abstract, these reflections are based on a vast research in the field.
1. Deliberation as Form and Founding of the European Parliament’s Power

In 1951, the Assembly was endowed only with control powers over the High Authority. Nevertheless its members assumed a deliberation right, that is the right to adopt declarative resolutions on every subject within the competence of the ECSC. In 1957 this kind of practice was finally acknowledged as Article 137 of the EEC Treaty disposed that the parliamentary Assembly "exerts deliberation and control powers granted by the present treaty". In fact a right of initiative (even if limited to one case, direct election) and a right to organizing itself were also granted. This inaccuracy was even more conspicuous as there was no change in Article 137, despite the Parliament's being granted budgetary and, later on, decision-making powers. The "deliberation power" referred both to the articles allowing the Parliament to vote resolutions and to the deliberation of initiative put into practice by the Common Assembly. In 1979 direct elections did not entail increased formal powers for the Parliament. Consequently the MEPs whose number and availability had also increased found themselves a little idle. Unable to be part of the legislative process, they turned to account their right to deliberate in order to interfere in all the domains out of their scope and become a vast forum.

Although the deliberation of initiative in the Parliament has often been described as a "whim" of the MEPs, whom were reproached to simulate the functioning of a national parliament, one should not underestimate its significance. One could even formulate the reverse hypothesis: in my view, the deliberation power of the European Parliament represents the keystone to the latter’s influence. Actually one should highlight the dynamics resulting from the combined ways in which the MEPs use their various competencies.

By the way, it is quite difficult to establish a typology of these competencies as they are tightly interwoven, both from a juridical and a practical point of view. Before the entry into force of the Maastricht Treaty, Article 137 of the EEC Treaty concerning the attributions of the European Parliament did not mention the budgetary and legislative powers the latter had acquired during the eighties and the nineties. Nowadays its text has become almost tautological as it disposes that the Parliament exerts "the powers granted by the treaties". Therefore authors had to resort to all sorts of divisions in order to present these powers: some consider the normative power as part of the deliberation power, while others deem it to be a
form of the control power. Depending on the work considered, the European Parliament can be granted in-between three and nine "powers".2

This situation emphasizes the tight links existing between the Parliament’s different domains of activity. The MEPs have very soon turned away from the initial object of their competencies in order to be able to exert other ones. They have thus extensively increased their influence on the legislative procedure by relying on their decision-making and control powers as far as budgetary matters are concerned. At the same time, the inventive use they made of their control competencies allowed them to increase their weight in the decision-making process and also their knowledge of the Union’s policies. The Parliament’s so-called power of "deliberation" has decisively widened the scope of the other powers, allowing thus the members to interweave them and base them on a political discourse. The MEPs are free to put on the agenda every question within the competence of the Union or even out of its sphere as they often deliberate on problems concerning member states or third states. The activity of the parliamentary forum has increased the media coverage of its deliberations, thus also increasing the impact of its resolutions and amendments. It has equally led to a "political triilogue", the MEPs getting used to ending the declarations of the Commission, the Council and the European Council by a debate, generally followed by the adoption of a resolution. Finally, it is due to their power of deliberation that the members were able to "suggest" legislative initiatives to the Commission, even before the acknowledgment of this right by the Maastricht Treaty.

One must therefore conceive of the European Parliament’s action not in terms of making use of a list of competencies but rather as a whole political activity. From this point of view one realizes that the impact of its activities is directly linked to its "tribune’s power". The term does not characterize the ability of the Parliament to state a minority’s position publicly, but refers rather to the "tribunicia potestas" of the people’s tribunes in ancient Rome. Under the law of the XII Tables the tribunes had a veto right over the consuls' decisions and could therefore resort to the justice of the people. They were able to bend the consuls to their will, entailing the reconsideration of their sovereignty as arbitrary and to initiate the democratization of the political system. This veto power made absolute sense when considered in the light of the tribunes' inviolability and right to free speech.

---

The European Parliament is also granted this "tribune’s power", in virtue of the conjunction of its members' independence, of the representative nature of their mandate and of their "veto" right. The MEPs’ right to free speech can be compared to that of the Roman tribunes as they also have extensive immunity and inviolability, they decide freely as to the internal organization of the Parliament, they draw up the agenda and are totally independent from other institutions and member states as early as 1979. Furthermore, being directly elected they have a mandate to control, in the name of the Community’s peoples, the action of the other institutions, which don't derive their powers from the citizens. They can finally derive a "veto" right from their legislative, budgetary and control powers. The political power of the Parliament is the result of a combination of three elements: its independence allows it to freely elaborate a discourse, its veto powers to make the latter taken into account, and its representativeness to legitimate interinstitutional conflicts and the possible ensuing treaty violations. The Parliament which is essentially granted "negative" competencies relative to its initial function as a control authority (which can reject legislative procedures, refuse approval, refer back to committees, carry a motion of censure or refuse the Commission’s nomination, reject the budget…) could thus accomplish "positive" activities by making proposals and amendments due to its right to free deliberation.

The power of the Parliament is not so much based on the claiming of its "sovereignty" in as much as it issues from an "European people", but on a clever, even technocratic use of its competencies. The members have realized that to invoke their democratic representativeness was somehow not the means to persuade either the Commission or the Council to take heed of their amendments and resolutions. Therefore they tend to demand this by brandishing the veto menace or by emphasizing the fact that they possess a form of specific expertise, supposedly completing the Commission’s. In order to prove their exhaustive knowledge of technical problems and of what’s at stake in the files as well as a multiform representativity, they have decided to open up the Parliament onto the European society and to increase the possibilities of meeting those whom Community policies address, be they citizens or representatives of social and economic forces.

To the extent in which the power of the Parliament does not derive from simply putting rules into practice but from the strategic use made of them, the MEPs are continuously asked to go to arbitration, to favour certain activities, a certain approach of interinstitutional relations or the understanding of the representative mandate. Therefore deliberation rests at
the heart of the device, not only as a process, but also as a stake the modalities of which the members are to define.

As the European Parliament is neither sovereign, nor does it exert (for a large part at least) "negative" powers to block, veto or criticize, the members have to prove inventive, to take advantage from the tiniest competence and to rely on their right to deliberate in order to influence the Union’s policy. They are bound to constantly redefine the modes and the objectives of deliberation, function of strategical considerations, of the evolutions in the political and juridical environment, and of the Parliament’s internal balance in order to preserve the institution’s "tribune’s power".

2. The Specificities of Deliberation within the European Parliament

If deliberation represents the basis of Parliament's power, what makes it special when considered as a concrete process? Does it have certain characteristics which are foreign to the common features of the deliberation within national Parliaments? Several elements draw our attention.

First of all, the functioning of the European Parliament is not governed by a majority or by a stable coalition. Each file entails negotiations between the groups and becomes the object of a specific compromise. Certainly, there are dominant configurations, as is the case of the coalition between Socialist and Christian-Democrat groups, but this is mainly due arithmetical imperatives. To the extent in which they gather more than two-thirds of the members, their alliance is almost indispensable to make up the majority of members necessary for legislative amendments to be adopted as well as for most important votes. Therefore, every time it’s possible, the Socialists and the Christian-Democrats try to make other alliances.

Group discipline proves to be much more reduced than it is within national parliaments. The members can invoke a conscience clause and it is by no means seldom that some of them or even entire national delegations refuse to obey the orders of vote given by their group. This can be done with or without the group’s agreement. Actually the means of exercising pressure on the members are quite meager, considering the mode of the candidate’s nomination for the elections as well as the possibility for the members to change ranks during one legislature.
The Union’s institutional logic emphasizes these phenomena because it rests upon the principle of interinstitutional competition: the mission of the European Parliament is not to help the Commission and the Council to put a programme into practice, but rather to supervise and influence their actions, be it by means of negotiations or confrontation. Deliberation within the Parliament is therefore not submitted to the logic of the majority which implies for certain Member States that the members of the party in power are to unconditionally back up government’s actions.

It should also be added that the European Parliament enjoys total organic independence, just like the American Congress. It cannot be dissolved either by the Commission or by the Council and it can only indirectly be pressurized by national political parties, European parties being quite embryo-like. Therefore it is exceptional, as in a situation of crisis, that the MEPs be solicited by chanceries, be it directly or by means of the groups' national delegations.

This independence is reinforced by complete autonomy concerning the elaboration of the Parliament’s internal rules, the choice of work methods and the definition of its timetable and agenda. Unlike what happens with many national parliamentary regimes, the deliberation of the European Parliament is not directly framed by constitutional texts and it evades the control of the executive. The members have to obey only material constraints (multilinguism, timetable, site) and constraints of procedure (types of majorities, deadlines). Every other rule and decision is the result of their own deliberation.

The last specificity to be mentioned is the heterogeneity of the European representation. The institution's supranational make-up implies the existence of a variety of political cultures, experiences, ideas. Moreover, as European elections are "second-order" elections, the proportion of newcomers in politics as well as of the representatives of the civil society is higher in the European Parliament than in the average national parliaments, dominated by the professionals of politics. All this entails a particularly free and open type of deliberation which is enriched by diverse experiences and competencies.

All this implies a great fluidity in the functioning of the Parliament, and therefore a very open mode of deliberation. The belonging and allegiance of the members are multiple (groups, national delegations, committees, intergroups…) and they have to choose in-between them. Thus they are frequently obliged to position themselves as to various cleavages (North/South, agricultural/non-agricultural regions, contributing/beneficiary countries,
maritim/non-maritim regions…) which do not overlap and which do not correspond to party cleavages.

This fluidity is nevertheless limited by the institutional logic that incites the members to go beyond their divisions in order to be able to defend their positions against the Council and the Commission. In so far as the Parliament is concerned, division is synonymous with impotence, most of its powers being "negative" ones. Moreover, the members take a personal interest in defending the prerogatives of their institution, which encourages them to face the other institutions. Therefore they have come up with a very strict set of rules for the deliberation process in order to rationalize and favour the possibility of obtaining the necessary majorities in due time. This rationalization is enforced by an increased control of deliberation by the two main groups, in virtue of the procedures for informal agreements. After the entry in force of the Single European Act, the Socialists and the Christian-Democrats account for this rationalization (which includes the restraining of the members' individual rights, the limitation of speech time and the priority given to amendments and proposals of "compromise") in terms of the necessity to give proofs of credibility to the Council and to the Commission and to produce texts which are "perfect" from a juridical point of view and therefore fully defensible.

Nevertheless this situation does not question our starting point: deliberation rests at the very heart of the Parliament’s functioning, even if it is also subject to a phenomenon of translation towards other places, namely the parliamentary committees and the political groups. Moreover it is the MEPs who choose to set strict rules to their work (even if the treaties implicitly enjoin them to do so) and they do this by means of deliberating. These constraints do not have an outer source, but are freely agreed to also in the respect of minorities. "Hondt’s rule" and the search of consensus during the modification of rules allow group or independent members' interests to be preserved more or less convincingly. The latter try to put a stop to the increase of constraints as they are the first to suffer because of them, but they do not question the legitimacy of the rules and do not consider quitting the deliberation, as had done the ecologists after the first direct elections. The members are bound to incessantly redefine the balance between efficacy and freedom, between deliberation as decision-making procedure and deliberation as debate. The Parliament’s latest report

---

3 This rule which is meant to guarantee the equality of political groups and of national delegations governs most aspects of the European Parliament’s functioning. According to it all "resources" are to be shared amongst groups and delegations on the basis of proportional representation. This concerns the mandates (namely, the composition of committees and of interparliamentary delegations, vice-presidents, the delegation to the
regarding the changes to be made in the light of the Amsterdam Treaty’s entry in force\textsuperscript{4} has once more revealed the tensions existing between these two poles.

If we resort to a "predictability" criterion, we can nevertheless assert that deliberation is not ossified. In most cases, it is impossible to estimate with any precision what will happen with the proposals submitted to the European Parliament. Indeed deliberation puts the Commission’s proposals to test by facing them with the Union’s social complexity. This complexity is equally embodied in the multiple cleavages and in the diversity of the MEPs. Nevertheless deliberation has an integrating effect: it starts from fragmented positions, it operates a levelling of the complexity using the already defined tools until a majority position is reached. Seldom does the Parliament prove unable to make up a majority, even when this is the majority of its members. Yet the positions it can arrive at are unpredictable. One can incidentally realize that the absence of the "demos" is not contrary to the political exercise: the resolutions of the Parliament are not the smallest common denominator between different positions, but rather the outcome of an exchange that leads to solutions which had not been taken into account in the beginning.

The question is not whether to deem all the characteristics of deliberation in the European Parliament as remarkable considering the fact that some of them are also true of national assemblies. But they combine in a strange manner in the European Parliament which benefits in this respect from a strange autonomy. The comparative study of the functioning of national chambers and of the European Parliament reveals that, despite the plenary deliberation being restrained to its simplest expression due to the number of files to be examined, of previous compromises and of the lapse of time granted to it, the deliberation is essential to the functioning of the institution. Truly, it is not limited to what happens on the benches; the division of work being clear-cut, it takes place in other rooms, within political groups, parliamentary committees, national delegations, intergroups, informal meetings… But in any case, most decisions are the outcome of deliberation, that is of constructive confrontation between multiple positions. It is certainly not the putting into practice of a political programme by a stable coalition or of negotiations between the representatives of disciplined and homogeneous groups.

Deliberation as initiative is the basis of the power of the Parliament. Deliberation as a mode of exerting competencies is indispensable in order to make up for the absence of the committee of conciliation…) as well as the reports, the speech time, the oral questions or the logistic and financial means.

"demos" and to back the fictions that render acceptable the apories and the paradoxes relative to the principles of representation and majority-based voting.

3. Towards an "European" Model of Deliberation?

One could not tackle the problem of the influence the European Parliament’s mode of deliberation might have on national parliaments without stating first that the former is the outcome of the national parliaments' modes of deliberation.

The organization of the European Parliament, its internal Rules and its practice stem directly from the German and French parliamentary traditions. Nowadays it still helps to read both the Rules of the European Parliament and of the French National Assembly during the Fourth Republic (1946-1958). From the very beginning, the MEPs were free to make decisions as to the internal organization of the institution. One task among others was even to define this mode of functioning as no previous treaty attempted to describe it. The members were free to make choices. And in this respect simple facts such as their meeting in political groups, their holding of plenary sessions in an hemicycle and their getting organized in standing committees are indicative of their having chosen a specific solution. As the Community was enlarged, there occurred new elements to be added in the picture: when Great-Britain joined in, the members adopted the principle of question time at the Commission and later on at the Council.

Yet, the European Parliament’s mode of deliberation is not a simple juxtaposition of imported institutional solutions. Mainly because different national models may prove to be incompatible. The Italians feel strongly about free debate whilst the Anglo-Saxons are keen on normative efficacy; the Belgians and the Austrians value consent whilst the Scandinavians insist on transparency. Therefore the European Parliament’s mode of deliberation is the outcome of a "bricolage" (makeshift repair), in the sense of the ethnological works dealing with acculturation and integration phenomena. The open confrontation of national traditions also meant the adoption of original and pragmatic solutions allowing the members both to face difficult problems of functioning and to increase their standing of competence. They had

---

to make up procedures or to borrow them from those of the American Congress, as is the case of individual hearings for candidates to the Commission, of the Office for Scientific and Technological Options Assessment, of enquiries.

Parliamentary practice as well as the Rules' frequent modifications and amendments (at present the members are working on the fourteenth edition) have created, by means of a process of growth, isomorphism, fusion and "Darwinian" selection, an organization which displays some of the characteristics of national parliaments and at the same time is different due to the special place that deliberation is given.

Ever since an "European" model of deliberation has emerged. It has allowed the European Parliament to increase its powers and to make the representation of Union’s social complexity reconcile with decision-making ability. Therefore we could ask ourselves whether this "European" model would be also viable for national parliaments. It is not the purpose of this paper to deal with the latest changes national parliaments have undergone or to settle the part that the European "mimesis" could play in this respect. We attempt to pinpoint the elements that could help this model if not to be espoused, at least to become part of national debates seeking solutions against the decline of legislative power.

Even if nowadays the practice of the double-mandate is almost extinct, the mode of nominating the members of the European Parliament before 1979 and the rate at which they are renewed account for that fact that many national MPs experienced supranational deliberation. I have interviewed several MPs and ex-MEPs about their views on the functioning of the European Parliament. The interviewed were satisfied with the Parliament’s mode of functioning and their discontent was mainly due to the weakness of its powers. Even more so as this weakness was largely responsible for the little effect their efforts could make. Some of them had also been members of national parliaments and they insisted particularly on the opportunity each member of the European Parliament has to take part in the deliberation. This does not mean the opportunity to speak up in plenary sessions, as speech time is limited and subject to strict rules. It means rather the opportunity for the members to take an active part in the work done by the committees and the groups which represent the loci of deliberation and of the elaboration of the Parliament’s resolutions. It is nevertheless true that the members are not alike; even so, the fluidity of positions is emphasized in national parliaments where precedence, political experience, partisan affiliation as well as certain customs or protocols spell out the role of each member. Therefore during debates concerning
internal rules and the mode of functioning of national parliaments, their members frequently invoke the experience acquired when at the European Parliament.

The connections existing between the European Parliament and the national ones represents the second vector of the European model of deliberation. For a long time inter-parliamentary cooperation was confined to the Conference of Speakers of the Parliaments of the European Union and Conference of the European Affairs Committees of the Parliaments of the European Union (COSAC). But from now on it concerns all of the MPs. The specialized committees of both national and the European Parliament maintain contact especially as far as the elaboration and the results of the Union’s legislative program are concerned. Delegations made up of national members often go to Brussels or to Strasbourg in order to attend the meetings of the committees and of the assembly. Supportive of the European party federations and of European parties, the political groups within the European Parliament play a crucial role in the establishing of contacts between national and European members. For each session, the groups welcome delegations of national members who are allowed to attend their meetings. Thus national members can make up their own minds about the advantages and disadvantages of deliberation as exercised by the European Parliament.

One must also point out the ever-increasing prestige of the institution. The European Parliament used to be considered as a curiosity, an assembly devoid of real powers and lacking renowned politicians. The perception shifted as the Parliament assumed new powers. The debates in the wake of the Maastricht Treaty ratification highlighted the degree of European integration and the importance of the powers granted to the European Parliament. The 1994 European elections and the preparations for the next elections prove that important politicians are interested in getting elected for an European mandate. Finally, during the latest legislature the Parliament’s work was broadcast more often than it was habitually. The problematic nomination of the Santer Commission, the Treaty on Customs Union with Turkey, the reaction at the resumption of French nuclear tests or at the disease of the "mad cow", the criticism of the Commission’s budgetary mismanagement were all given extensive media coverage.

All these elements account for the influence that the "European" model of deliberation can have on the reflections concerning the decline of parliaments, or dealing with the

---

possibility of improving the control by the national parliaments of their own organization and work.

The European Parliament is referred to when it comes to freedom of internal organization. The European members have control both over the Rules and over the agenda, while this is hardly the case with Chambers in a rationalized regime or a two parties system. National members and analysts point out that the European Parliament is able to adapt to different circumstances, to put into practice political strategies and to assert its independence against the Council or the Commission.

This independence is also manifest in the "deliberation power" which is unknown to many national parliaments. If in the beginning this power was considered to be indicative of the Parliament’s weakness and of the lack of normative power for which it offered but meager compensation, nowadays it symbolizes the political independence that the MEPs have acquired. They have the freedom to state on every question within the Union’s competence. It is also significant that previously to the ratification of the Maastricht Treaty the French Parliament was granted a limited right to deliberation by the revised Constitution. Under Article 88-4 of the Constitution, it is allowed to adopt resolutions regarding community rules of which it is informed by the French government.

The national MPs are equally interested in the questioning procedure at the Commission and at the Council, given the fact that it represents a model closely inspired by the British parliamentary practice. In most member states the ministers get beforehand information and, when questioned, they read out the answers provided by their ministries. Unlike that, at the European Parliament questioning is a powerful means of control and investigation feared by ministers and commissioners alike.

Moreover, the national MPs covet the independence that their European colleagues have as far as parties and political groups are concerned. The national MPs who find it difficult to obey partisan discipline refer frequently to the relative freedom of the European members. In fact a "conscience clause" allows the latter to disregard partisan orders so that they can defend particular interests, namely national ones, or another cause fond to them. In more general terms, national MPs covet the weakness of hierarchy. The pressure of hierarchy within political groups is feeble as the candidates’ nomination does not depend on the will of the group, but on national or regional parties. Therefore all logic of the majority is found to be lacking.

In certain parliaments, namely those that have a constitutionally limited number of committees, MPs also covet the freedom the European members have in creating and defining
competencies for the committees. They are vital for the Parliament’s activity, as members can get organized in order to be able to attend the debates in each field. The committees are also essential for legislative proposals and for the follow-up of the Commission’s executive measures. New sub-committees or even temporary committees can be created in order to survey the evolution of particular files.

National MPs took an interest in the committees of inquiry being created at the European level even before this right was formally acknowledged by the Maastricht Treaty. This practice that drew the attention of the media especially during the inquiries on bovine encephalitis and on European transit proved to be an efficient means of control and investigation.

Finally, the European Parliament’s mode of organization is particularly interesting when it comes to budgetary matters, and namely to the supervising of the Commission’s policy implementation. Some experts quote the European Parliament as an example for national chambers which should focus on the budget supervision and not on its voting. Even if the European Parliament has no control over the receipts, the scope of its budgetary power is quite extensive.\(^7\)

* 

One should not put forth a theory of "merging" or imply that the European political system (comprising both the Union and the member states) tends to be levelled as a consequence of the influence the EC political practice has on national political systems. Nevertheless one must emphasize the fact that the functioning of the European Parliament is particularly significant for the reflections on the future of parliamentary government, in the sense that its deliberation proves to be an efficient and legitimate means of exercising political competencies. Deliberation helps face social complexity understood as a process of elaborating public policies. It also surpasses the difficulties arising from the absence of the "demos" in a process of identifying the general will. Therefore it represents a privileged means in defining efficient and legitimate policies.

\(^7\) Loic Philip, "L'avenir du contrôle du Parlement sur les finances publiques" ("The Future of the Parliament’s Control of Public Finances"), study day in honour of Daniel Strasser, Strasbourg, Institut des Hautes Etudes Européennes, April 26, 1996.
4. BIBLIOGRAPHY

1. MONOGRAPHS


BADIE B., HERMET G., Politique comparée, Paris, PUF, 1990


HURWITZ L., LEQUESNE Ch. (ed.), The state of European Community, politics, institutions and debates in the transition years, Boulder (USA), Lynne Rienner Publishers, 1991.


2. ARTICLES


