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INTRODUCTION TO AND ANALYSIS OF THE EUROPEAN PARLIAMENT

YEVROPA PARLAMENTIGA KIRISH VA TAHLIL

ВВЕДЕНИЕ И АНАЛИЗ ЕВРОПЕЙСКОГО ПАРЛАМЕНТА

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Abstract

The European Parliament (EP) has been one of the main institutions and flagships of the European Union. The Parliament is characterized as being dynamic in terms of its composition, structure and power. Many resemblances can be drawn between national parliaments and the EP such as having political groups and being elected by universal suffrage. Nevertheless, the EP is a sui-generis formation that differs in many respects from its national counterparts such as sharing legislation with another institution. The EP is part of the supranational power-sharing structure with strictly defined powers. This research paper investigates the journey that EP has taken since its formation, how it reached its current shape and form, the organizational structure and composition of the EP, how it evolved from being a “talking shop” to co-legislator, what constraints the parliament faces in the process of exercising its decision-making power and many more.

Annotatsiya

Yevropa Parlamenti (EP) Yevropa Ittifoqining asosiy organlaridan biridir. Parlament o'zining tarkibi, tuzilishi va vakolatiga ko'ra dinamikligi bilan ajralib turadi. Davlatlarning milliy parlamentlari va AP o'rtasida siyosiy partiyalarga ega bo'lish va umumiy saylov huquqi bilan saylanish kabi ko'plab o'xshashliklar mavjud. Shunga qaramay, EP o'ziga xos shakli bo'lib, ko'p jihatdan milliy parlamentlardan ajraladi, masalan, qonun chiqaruvchi hokimiyatni boshqa organ bilan bo'lishish. EP millatlararo hokimiyat tuzilishiga va qat'iy belgilangan vakolatlarga ega. Ushbu tadqiqot EP tashkil topganidan beri bosib o'tgan yo'lini, uning hozirgi shakliga qanday erishganini, EPning tashkiliy tuzilishi va tarkibini, qanday qilib “quruq gapbozlik”dan qonun chiqaruvchi organga aylanganini, parlament qaror qabul qilish vakolatini amalga oshirish jarayonida qanday cheklavlarga duch kelishi mumkinligi va boshqa ko'plab masalalarni o'rganadi.

Аннотация

Европейский парламент (ЕП) является одним из основных органов Европейского Союза. Парламент характеризуется как динамичный по своему составу, структуре и полномочиям. Между национальными парламентами и Европарламентом можно найти много общего, например, наличие политических групп и избрание всеобщим голосованием. Тем не менее, Европарламент отличается своеобразием, как так ЕП разделяет законодательную власть с другим органом в отличии от национальных парламентов. Европарламент является частью наднациональной властной структуры со строго определенными полномочиями. В этой исследовательской работе исследуется путь, который прошла Европарламент с момента его образования, как он достиг своей нынешней формы, организационная структура и состав Европарламента, как он превратился из «говорильни» в со-законодателя, с какими ограничениями сталкивается парламент в процессе осуществления своих полномочий по принятию решений и многое другое.

Key words: European Parliament, treaty, universal suffrage, composition, structure, mandate, law, legislation, consultation, supervision, appointing power, institutional balance, legitimacy

Kalit so'zlar: Yevropa parlamenti, shartnoma, umumiy saylov huquqi, tarkibi, tuzilishi, mandati, qonun, qonunchilik, maslahatlashuv, nazorat, tayinlash vakolati, institutsional muvozanat, qonuniylik

Ключевые слова: Европарламент, договор, всеобщее избирательное право, состав, структура, мандат, право, законодательство, консультация, надзор, назначающая власть, институциональный баланс, легитимность

INTRODUCTION TO THE EUROPARLIAMENT

Formation of the European Parliament dates back to 1952 when Common Assembly of the European Coal and Steel Community (ECSC) was established in Strasbourg by Treaty of Paris. Article 21 of the Treaty establishes that “The Common Assembly shall be composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage...” By the creation of the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM), in 1958, the Common Assembly started to be shared as a single assembly by three aforementioned institutions setting up its second home in Luxembourg (now Secretariat of the European Parliament). At its first session in March 1958, it took the name

European Parliamentary Assembly. On 30 March 1962, the Assembly decided to harmonise its name in the various official languages and opted for European Parliament. This designation was officially declared in the Single European Act of 1986 (Article 2).

Notwithstanding the Parliament's official seat in Strasbourg, an attached protocol 'on the location of the seats of the institutions...' to the Treaty of Amsterdam states that the periods of additional plenary sessions and meeting of the committees of the European parliament shall be held in Brussels. To this date, the decision makes Brussels hold more meetings than Strasbourg – where only monthly gatherings take place.

Initially the European Parliament members were appointed by the member states until 1979 when for the first time direct universal suffrage has become the method to elect parliament members from then on. Even though Article 21 of the Paris Treaty mentions direct universal suffrage as an optional method for the European Parliament elections, 'the Decision and Act on European elections by direct universal suffrage (1976)' is a main source that establishes rules and methods of conducting elections on the basis of direct universal suffrage. This document highlights that representatives shall be elected for a term of five years (Article 3). The same rule has been incorporated into following successive treaties without a change to a term period.

Article 223 of the TFEU envisaged uniform procedure in (or principles common to) all member states for the election of Members of the European Parliament (MEPs), that will be established by the European Parliament proposal laying down provisions. However, this provision has to be adopted unanimously by the Council, consented by the EP and later ratified by all the member states in order to achieve uniform procedure which is not the case yet. The European Union desires to overcome variations in electoral procedures among member states that sometimes contrast each other (i.e. the highest averages method of proportional representation vs. largest remainder method).

When direct universal suffrage was introduced in 1976, the number of MEPs had foreseen to be 410, taking into account population size of then nine member countries. Number of MEPs has increased proportionately with each enlargement waves culminating at record number of 785 MEPs in 2007 in order to adjust to the accession of Bulgaria and Romania. Currently, Article 9A of the Treaty of Lisbon had set seven hundred and fifty one MEPs, including the President, as a limit. According to this treaty, representation of each member state citizens shall be degressively proportionate meaning that least populated member state shall have six seats and no member state shall exceed ninety-six seats in the EP.

The Statute for Members of the European Parliament adopted in 2005 secures rules and general conditions applicable to the exercise of MEPs' mandate. The statute is in effect since 2009 parliamentary election and clarifies certain matters such as members shall be free and independent, shall not be bound by any instructions and shall not receive a binding mandate during voting, shall be entitled to table proposals for Community acts in the context of Parliament's right of initiative, shall be entitled to inspect any files held by Parliament, shall be entitled to an appropriate salary to safeguard their independence etc.

Lastly, when it comes to the question of 'who can stand as a candidate in elections' it has been stated by the Maastricht Treaty (1992) that every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides.

Organizational structure of the European Parliament

Elected members of the EP organize themselves around political groups (political affiliation), rather than seating according to their nationality in plenaries. Therefore, groupings denote political preferences and objectives of the MEPs placing them in the ideological spectrum of left and right, and refuting their national interests in favor of individual interests of EU citizens. Article 224 of the TFEU have entitled the European Parliament and the Council to lay down the regulations governing political parties at European level by using ordinary legislative method. The composition of EP political groups has remained relatively stable in the last decades, with two large groups dominating the EP's political life the largest being the conservative Christian democrats – now called European People's Party (EPP).

Another organizational entity within the EP is the committee system. There are, currently, twenty standing committees such as Foreign Affairs, Human Rights, Security and Defence, Development, International Trade, Budgets, Budgetary Control etc. There can be also sub-

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committees, special committees, conciliation committee and committees of inquiry in order to facilitate issues in specific areas, reconcile the Commission and the EP, and investigate violations of EU law. In the beginning of a new legislative year, MEPs choose which committees they will join, though committees do not share equal number of MEPs varying dramatically from one committee to another. Each committee is headed by a chair and up to four vice-chairs elected from its full members. The committees prepare legislative reports for the European Parliament to a proposal referred by the Commission in which committee rapporteur (or chair sometimes) is a responsible person to draft and amend the proposal, if necessary, before voting within the committee. Moreover, the committees also draw up a non-legislative report (resolution), submit opinions to other committees after approval of the President and scrutinise the other EU bodies and institutions.

As it is said, the committees are largely responsible for examining the technical details of the Commission's proposal, for engaging in a political debate and starting negotiations with the Council, reserving the plenary debates mostly for voting on the issue and relieving plenary from the workload. Thus, committees are the main bodies where legislations are shaped and decisions are reached. Moreover, rapporteurs (relais actors), being in charge of writing the EP report on a given legislative proposal, have become important figures who exert EP's influence on other institutions. They are the EP representatives in inter-institutional negotiations.

The Bureau of Parliament can be considered as another formation which is the regulatory body responsible for the Parliament's budget and for administrative, organizational, and staff matters. The Bureau consists of an elected President and fourteen Vice-Presidents whose tenure lasts two-and-a-half-year.

The Conference of Presidents, on the other hand, is comprised of the President of Parliament, the Chairs of the political groups, and one non-attached member of the Parliament. The Conference of Presidents is the responsible entity for matters regarding Parliament's relations with the other institutions and bodies of the European Union, with the national parliaments of Member States, with non-member countries and with non-Union institutions and organisations etc. The Conference of Presidents also takes decisions on the organisation of Parliament's work/agenda and on matters of legislative planning.

The EP has also been empowered with capacity to influence foreign affairs of the union, while national parliaments traditionally focus on domestic affairs with comparatively less involvement in the international relations of their respective countries. It is true especially when we consider that the EP has to agree on the budget of the European External Action Service (EEAS); has to approve its High Representative; and has a deep-rooted system of inter-parliamentary relations. The EP has forty-four permanent delegations, in '2014-2015' legislative term, that stretch to all continents. Delegations maintain and improve Parliament's international contacts and contribute to boosting the role and visibility of the European Union in the world. For the purposes of maintaining proper functioning of the standing delegations, creating bridge between the delegations and The Bureau and the Conference of Presidents, the Conference of Delegation Chairs was established.

FUNCTIONS (POWERS) OF THE EUROPEAN PARLIAMENT: FROM SYMBOLIC AUTHORITY TO A MIGHTY ACTOR

"The role of the EP has changed radically both in terms of influence and meaning. From being perceived as a 'talking shop', it has now become one of the main EU institutions, co-legislating with the Council in most policy areas."

Consultation: the EP as a sheer consultative body

Consultation procedure is a special legislative procedure that provides the European Parliament with no power to legislate in a limited number of areas. It is the oldest legislative procedure existing since the Treaty of Rome. Consultation procedure has an advisory characteristic rendering the EP incapable to legislate, whereas the Council adopts legislation unilaterally proposed by the Commission. Since the Council is not legally obliged to take account of a Parliament's opinion, it had been observed that the Council was asking the opinion of the parliament, but not waiting for the answer (opinion) of the Parliament during legislation process. However, Isoglucose (1980) and Chernobyl (1990) case-laws of the Court of Justice stated that "It is impossible to take the view that the requirement is satisfied by the Council's simply asking for

the opinion, if no opinion is afterwards given by the Parliament”, thereby it ruled that consultation means asking and receiving opinion of the EP.

To exemplify the cases where consultation is used, following example can be given: according to the Protocol (No 3) of TFEU “The rules governing the language arrangements applicable at the Court of Justice of the European Union shall be laid down by a regulation of the Council acting unanimously. This regulation shall be adopted ... after consultation of the European Parliament.” Furthermore, according to the Art 39 of the TEU, the Council shall consult the European Parliament before adopting any measure on the issues such as adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States.

Progressive power attainment through amendments: Consent Procedure and Ordinary Legislative Procedure

Consent procedure is applied in very rare but important areas. It is a form of non-legislative procedure. The European Parliament has no legislative capacity (cannot participate in drafting of the text) and the Council is still a sole legislative body. However, under this procedure the Parliament has a right to veto the Council legislation blocking or delaying the adoption of it.

Formerly known as the assent procedure, consent procedure was introduced by the 1986 Single European Act in two areas: association agreements and agreements governing accession to the European Union (mentioned in Art 49 TEU). The domain for the application of the procedure was extended by all succeeding modifications of the Treaties. In extended form, consent procedure now applies to arrangements regarding the withdrawal from the EU (mentioned in Art 50 TEU), to legislation on combating discrimination, to creating the means necessary to attain the Union’s objectives (mentioned in Art 311 TFEU) etc.

The consent procedure requires different methods of voting in the Parliament depending on the nature of international agreement. For instance, sanctions on a member state due to a breach of fundamental EU principles have to be passed with a qualified majority of two-thirds of its members, while international agreements based on the ordinary legislative procedure require a simple majority. MEPs face more challenges under this procedure than in any of the other procedures for the reason that absolute power of the veto puts the burden of such an important decision-making on the Parliament’s shoulder that might have negative resonance in international arena if vetoing backlashes. Therefore, the EP becomes reluctant to use its ‘nuclear’ veto power given that the EP can only offer leave all or take all, but nothing in between.

Ordinary legislative procedure (formerly known as the co-decision procedure) is the most widely used decision-making procedure today. It is required in adoption of legislative acts (i.e. regulations, directives or decisions) in which the Parliament and the Council share an equal authority enabling them legislate jointly in the relevant areas. Those areas have been extended since the Maastricht Treaty (treaty introducing the co-decision) and today, with the Lisbon Treaty in force, cover the wide range of areas such as environment, transport, internal market, agriculture and fisheries, security and justice, commercial policy etc.

The ordinary legislative procedure starts with the submission by the Commission of a proposal for a legislative act to the Parliament and the Council, thereby starts the first reading. At first reading, the Parliament has to act first, by approving the Commission’s proposal without amendments, amending it or rejecting it. After that the Council may decide to approve the EP’s position, leading to an adoption of the legislative act, or it may amend the position and report its common position at first reading to Parliament for a second reading. In second reading, the Parliament can approve, reject or amend the Council’s position at first reading leading to adoption, rejection or the Council peruse of the amended common position, respectively. Legislation may pass to the final phase which is called conciliation (third reading) phase. In this phase conciliation committee convenes to reach a compromise for the last time.

As part of the ordinary legislative procedure, an adoption of the budget can be included here as well. It is regulated under Art 314 of TFEU which consists stricter terms such as deadlines and submission of the reasons of taken position etc. and gives final say to the Parliament.

To understand the meaning of the ordinary legislative procedure for the European Parliament we can draw an analysis from different angle. The absolute majority required to reject or amend the Council’s common position during the second reading casts incertitude whether rapporteur/the Parliament should accept a sub-optimal solution at first reading or not, since rapporteur may have doubts regarding reaching an absolute majority in second reading or being

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successful in conciliation. Therefore, rapporteur might not risk going to second reading taking the threshold (absolute majority/376 votes) into account which is difficult to be achieved. This situation constrains the Parliament in a sense that Parliament may not opt to exhaust all its powers. Moreover, if a file reaches the second reading, the EP can only negotiate on those amendments that were already introduced during the first reading. Inability of a rapporteur to introduce new amendments in the second reading reduces the flexibility of the procedure further.

Cooperation Procedure

This procedure came with the Single European Act, increasing the weight of the Parliament in a decision-making process. However, it was later incorporated into the co-decision procedure under the Maastricht Treaty and by the following treaties. This procedure vested the Parliament with a power that enabled the EP to force the Council to take a decision (legislate) by unanimity if the EP would give a negative vote on the legislation concerned.

Other legislative powers: Delivering Opinion, Implementing and Delegated provisions, and Initiatives

During the process of 'monetary union', a Member State (MS) aiming at adopting single currency (Euro) shall request the Commission and the European Central Bank to draw a report on the progress made by the MS and submit it to the Council. Subsequently, the Parliament delivers its opinion. This opinion is the committee report submitted to the Parliament advocating approval or rejection of the proposed act on the basis of which Parliament takes a single vote on the proposed act. After consulting the European Parliament and after discussion in the European Council, the Council shall decide whether a MS fulfills the eligibility on the basis of the criteria set out in Art 140 of the TFEU, and lift the constraints over the Member State.

When it comes to the implementing provisions, the Commission may introduce implementing provisions for existing legislation. These provisions go to the Parliament either for information or scrutiny. Referred implementing act subsequently becomes under consideration of the responsible committee. The committee might table a motion for a resolution to the Parliament stating that "a draft implementing act goes beyond the implementing powers conferred in the basic legislative act or is not consistent with Union law in other respects." As a result, Parliament may adopt a resolution opposing the measure and asking the Commission to withdraw or amend the draft of acts/measures or submit a proposal under the appropriate legislative procedure. Similarly, where a legislative act authorizes the Commission to amend or supplement non-essential elements of a legislative act, the committee responsible shall analyze any draft delegated provision/act once it becomes under the Parliament scrutiny. The committee responsible may submit to Parliament a motion for a resolution indicating appropriate proposal in line with the provisions of the legislative act.

Lastly, the Parliament may issue non-legislative own-initiative reports according to the rules of 45 and 52 of procedure of the European Parliament or call upon the Commission to submit (initiate) any legislative proposal by using the initiative right under Article 225 of the TFEU. In cases where the Treaties confer a right of initiative on Parliament, the committee responsible may decide to draw up an own-initiative report after the permission of the Conference of Presidents, which includes a motion for a resolution, a draft proposal etc., but if necessary the required approval or consent has to be obtained as well from the Council and the Commission.

The Parliament as Supervisory and Appointing Power

Setting up of a temporary committee of inquiry is a right given to the Parliament by the Maastricht Treaty. Committees of inquiry examine alleged contraventions and maladministration in the implementation of the EU law with the exception when the alleged facts are being examined before a court and dissolve following the submission of a report to the EP. Moreover, in consolidated version of the TFEU, the article 227 defines that any citizen of the Union or any natural or legal person residing in a Member State has the right to petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.

In addition, the EP can ask oral and written questions to the Council and the Commission. After each European Council summit, the President of the European Council submits a report to the European Parliament on the outcome, meanwhile the Commission regularly submits reports to Parliament including an annual report on EU activities and on the implementation of the budget.

Furthermore, the President of the Council discusses their programme with the MEPs, and the High Representative reports on the policies of the Foreign Affairs Council twice a year.

The European Parliament can appoint and request for dismissal of the European Union ombudsman, elect the Commission President according to the Art 14 of TEU and Article 17 of TEU which states that candidates must be nominated by the European Council, approve/consent to an appointment of the High Representative and the Commission as a whole, dismiss or require the resignation of the Commission by 'vote of censure' (2/3 majority of the Parliament is required) which has never been used. Moreover, during the appointment of members of the Court of Auditors, and the President, Vice-President, and Executive Board of the European Central Bank, the Parliament shall be consulted by the Council and the Member States, though the EP's approval/disapproval is irrelevant.

Reaching institutional balance and democratic accountability

Today, the European Parliament is able to place itself in a triangle of institutions alongside the Commission and the Council by having an equal (balanced) power to them. Since those institutions represent different interests each (i.e. European Parliament representing individuals/citizens), it is essential that there is an institutional balance. Otherwise, underestimation of a democratically elected Parliament might cause democratic deficit and call into question the legitimacy of the European Union.

The EP as an elected institution controls the Council and the Committee under its supervisory power. It is called a supervisory power of the elected institution over appointed ones. This is crucial to obtain democratic accountability/control that further legitimises the Union's existence.

The EP is democratic forum and supranational entity where miscellaneous matters are discussed ranging from animal welfare to monetary and humanitarian crisis encompassing the whole world. Therefore, the ordinary legislative procedure is a milestone arrangement that serves to an end of engaging the citizen-centered body to the decision-making process, thereby opening up the horizon of the decision-making to the areas directly interesting individuals. On the other hand, the presence of political groups also enhances the supranational character of the European Parliament in particular.

Taking into consideration all the mentioned merits, the EP has been invested with the responsibility of filling the perceived democratic gap between the EU and its citizens. This function has served as a legitimising tool to justify the gradual empowerment of the EP which is going to continue further unless it is interrupted by the debate that low turn-out does not justify the progressive empowerment.

CONCLUSION

The European Parliament has been one of the main institutions and flagships of the European Union. The Parliament is characterized as being dynamic in terms of its composition, structure and power. Many resemblances can be drawn between national parliaments and the European Parliament such as having political groups and being elected by universal suffrage. Nevertheless, the EP is a sui-generis formation that differs in many respects from its national counterparts such as sharing legislation with another institution. The EP is part of the supranational power-sharing structure with strictly defined powers.

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