



# ***A Budgetary Advance*** ***The European Parliament's Growing*** ***Role in EU Foreign Policy***

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*ARENA Working Paper 9*  
*August 2014*

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*ARENA Working Paper 9/2014  
August 2014*

*ARENA Working Paper (print) | ISSN 1890-7733  
ARENA Working Paper (online) | ISSN 1890-7741*

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## **Abstract**

Based on observations of the EP's growing influence in EU foreign policy, this paper raises the question of why Member States would be willing to share their powers with MEPs over whom they have little, if no control. It contributes to answer this question by focusing on the allegedly most potent power the EP has in the area of CFSP: its budgetary power. It asks how the EP has gained more influence in the CFSP through the budgetary process and how this can be explained. It is shown how the EP has managed to expand its rights to be informed and consulted on CFSP-matters in a series of agreements with the Council. However, the EP has become involved in the CFSP beyond what would be expected from these agreements. Moreover, there has been a fundamental change in the Council's perception of the EP's role in the CFSP and that the mode of interaction between the Council and the EP has changed accordingly. The paper argues that while the concrete agreements are mainly a result of the EP's bargaining tactics, the change in the Council's perception of the EP's influence in the CFSP was due to a process of constitutive learning. Changes in the Council's behaviour and an emerging consensus on the principles underlying the EP's new rights in the CFSP may be traced back to the arguments presented by the EP. This also explains why the Council has agreed to go beyond the intention of its agreements with the EP.

## **Keywords**

Budgetary Process - CFSP - Communicative Approach - Democracy - European Parliament

## Introduction

When the Common Foreign and Security Policy (CFSP) was established at Maastricht as a separate pillar, one reason was to avoid meddling from supranational institutions, among them the European Parliament (EP) (Moravcsik 1998). Since then, the EP has consistently requested more influence over the CFSP, but member states have been equally consistent in refusing to increase its powers. Thus, the treaty provisions have not changed since 1993; the rights of the EP are still limited to consultation and information on the main aspects and basic choices of the CFSP (Article 36 TEU). Nevertheless, several authors argue that the EP has managed to enhance its position in the CFSP, by pursuing a proactive strategy (Barbé 2004; Barbé and Surrallés 2008; Diedrichs 2004; Fischer et al. 2007; Grunert 1997; Maurer et al. 2005; Raube 2012; Thym 2006; Viola 2000; Wisniewski 2013).

Seen against the commonly held perception that the CFSP is governed by intergovernmental principles, this is an unexpected development. Why would member states, in such a sensitive area as foreign policy, be willing to share their powers with Members of the European Parliament (MEPs) over whom they have little, if no control? In order to answer this question, this paper studies the CFSP-budget, which is the one area within CFSP where the Council is obliged to share its authority with the EP (Miskimmon 2012). The EP's power over the CFSP budget is described as its most potent power as well as one of the most important inroads to influence in the area of CFSP available to the EP (Keukeleire and MacNaughtan 2008; Maurer et al. 2005; Monar 1997; Thym 2006). Still, the effect of the EP's budgetary rights depends on how these are put into practice and on the room for manoeuvre other actors have. For instance, in the field of security and defence, member states have chosen to finance operations outside of the EU-budget to avoid involving the EP (Thym 2008). Thus, looking at the budget provides an opportunity to investigate how the EP's formal powers give it influence in the CFSP. By studying the CFSP budgetary process over a 15-year period, the specific aims of this paper are to answer to what extent the EP, through the budgetary procedure, has gained more influence in the CFSP? Subsequently, if the EP's influence has increased, how can this development be explained?

Most studies addressing the EP's role in the CFSP have focused on how the EP's budgetary powers are used as a bargaining tool to force concessions from the Council (Crum 2006; Diedrichs 2004; Keukeleire and MacNaughtan 2008; Maurer et al. 2005; Monar 1997; Thym 2006). As a result, the EP's rights to access information and the reporting requirements in the area of CFSP have been expanded through Interinstitutional Agreements (IIAs) between the EP and the Council. However, the findings in this chapter also indicate that the

EP's influence in the CFSP has developed beyond what one would expect from these agreements. This cannot be accounted for by the EP's strategic use of its budgetary powers. Because bargaining approaches aim to explain concrete agreements, they are less equipped to capture the 'non-contractual element of the contract' (Durkheim in Eriksen and Weigård 1997: 225).

In the course of the 15 years analysed in this paper, the development of norms and practices in the context of the CFSP budgetary process appears to have significantly altered the EP's involvement in the CFSP. The EP receives more substantial information, participates in more real discussion and more political debate about the past, present and future prospects of the CFSP. This suggests a fundamental change in the relationship between the EP and the Council, corroborating earlier studies that claim to observe a 'grudging acceptance' among member states of the EP's influence in foreign policy (Smith 2004: 174). Building on a communicative approach, this paper investigates this development as an instance of 'constitutive learning': A long-term learning process where the EP's presentation of compelling arguments for why it ought to have more influence in the CFSP have been accepted as valid by the Council, leading it to accommodate the EP's claims.

In the following section, the EP's powers in the CFSP are discussed in comparison to those of national parliaments, with a focus on budgetary powers. Then, the extent to which the EP has increased its influence in the CFSP is analysed, while the fourth section explores different explanations for the development of the EP's influence. Finally, in the concluding section some empirical and theoretical implications of the findings are suggested.

## **Parliamentary involvement in foreign policy**

Foreign policy has traditionally been a governmental prerogative, because of the conviction that it, compared to other types of policies, requires a higher degree of secrecy and flexibility. This is one reason why the role of parliaments in foreign policy-making is less influential than in other policy areas (Eriksen 2011; Hill 2003; Lord 2008; Wagner 2006). Another reason is that parliaments are legislative institutions, but in foreign policy there is little legislation (Lindsay 1994). Although there are national variations, '[p]arliamentary accountability of foreign and security policy tends to be weak in most political systems' (Hängii 2004: 15). However, parliaments still have some formal instruments to influence foreign policy. First is the right of many parliaments to ratify international treaties (Hill 2003). Second is the 'power of the purse', which traditionally is 'one of the hallmarks of effective parliamentary supervision' (Weiler 1980: 175), particularly in the case of the defence budget, as shown by studies of the US Congress (Lindsay 1994). Both

of these are somewhat 'nuclear' options, but could still contribute to parliamentary influence over foreign policy decision-making.

During the last two decades, each treaty reform has extended the EP's powers. The codecision procedure, which was renamed the Ordinary Legislative Procedure by the Lisbon Treaty, has made the EP and the Council equals in terms of legislative powers. Thus, there is a general pattern of increasing the EP's powers whenever decision-making authority is delegated to the EU-level (Rittberger 2005). Not so for the area of foreign policy. One reason why the CFSP has remained a separate pillar is to avoid interference from supranational institutions such as the EP (Moravcsik 1998). The conception that the EP's influence on the CFSP is marginal, builds on the weakness of its treaty-based powers (Cameron 2007; Eeckhout 2012; Juncos and Pomorska 2008; Tonra 2000). Alan Dashwood (2003: 32) calls the EP's role 'unexceptional' as there is no 'general practice in Member States of requiring the legislature to be consulted in advance when action is contemplated at national level in the policy areas covered by the CFSP'. However, the EP's marginal powers could also be seen as reflecting the perception of the CFSP as distinct 'in terms of its decision-making structures, its forms of accountability and the sources of its legitimacy' (Hyde-Price 2002: 41).

During the Convention preparing what became the Lisbon Treaty, suggestions to increase the role of the EP in CFSP and CSDP was met with firm opposition from member states (Norman 2003). Thus, the Lisbon Treaty represents a 'modified status quo' with regard to the EP's role in CFSP (Diedrichs 2004). According to Article 36 (TEU), the EP has the right to be regularly consulted and informed by the High Representative (HR) on the 'main aspects and basic choices' of the CFSP and CSDP. S(he) is also to ensure that the views of the EP are duly taken into consideration. The EP can ask questions to the Council and make recommendations to it. Twice a year, the EP is to hold a debate on the progress of implementing the CFSP. There are other arenas and procedures that are equally important for the exercise of control as well. The EP's ability to scrutinise the activities of the HR has for instance been described as essential (Crum 2006). Moreover, the presidencies and special representatives brief the EP on a regular basis.

In addition, the EP has two indirect powers at its disposal. First, there is the power of consent, which is needed when the EU enters into 'virtually any international agreement [...] of any significance' (Corbett 2012: 249). One exception is, however, agreements that relate exclusively to the CFSP (Article 218a, TEU). Secondly, there are the EP's budgetary powers. Because CFSP-expenditure is classified as non-compulsory, the EP makes up part of the budgetary authority together with the Council (article 40 article 28 TEU).

Nevertheless, the capacity to act does not equal actual performance (Arter 2006). In other words, the influence that results from the EP having budgetary powers depends on how these are put into practice and on the room for manoeuvre other actors have. Thus, the next section analyses the extent to which the EP, through the budgetary procedure, has gained more influence in the CFSP.

## **Has the EP's influence in CFSP increased?<sup>1</sup>**

Article 41 (TEU) regulating the CFSP budgetary process gives the EP a treaty-based claim to be involved in the CFSP because it has to approve the CFSP budget. Yet, comparisons between formal powers and actual influence often show considerable discrepancies (see for instance Auel 2007; Bono 2006). That is why this paper applies a definition of influence that is broader than formal powers. Influence encompasses the ability to affect the decision-making process, e.g. through veto or legislative powers, but also the possibility of exerting influence through agenda setting and control. Some argue that because much of the exercise of power in this area is not subjected to judicial review by the European Court of Justice, political oversight of EU foreign policy is even more important (Corbett et al. 2005: 274). There is very little legislation in the area of foreign policy, and as mentioned most parliaments only have crude powers at their disposal, such as the right to veto international agreements. This makes the development of alternative channels of influence crucial. The following sections analyses to what extent the EP's participation in the budgetary process has given it more influence in the CFSP. This is done by comparing the treaty provisions that deal with the EP's role in CFSP – Article 28 (TEU) on CFSP expenditure and Article 21 (TEU) on the EP's role in CFSP – to the rules, norms, procedures and practices that have developed in the context of the budgetary procedure.<sup>2</sup>

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<sup>1</sup> The data consists of written documentation from 1993–2007, mainly EP, Council and Commission documents concerning the CFSP-budgetary procedure obtained from official registers. Furthermore, it comprises secondary sources, such as existing studies and media reporting. I have also conducted 13 interviews with actors on several sides of the table: three MEPs, four EP-officials, one official from the Commission, two officials from the Council, one from the European External Action Service (EEAS) as well as two representatives from different presidencies (see appendix 1 for further information).

<sup>2</sup> Because the analysis looks at the budgetary process prior to the entry into force of the Lisbon Treaty, the 'old' articles are used throughout, that is Article 28 instead of 41, and Article 21 instead of 36.

## The Interinstitutional Agreements (IIAs)

In 1993, when the CFSP was established, it was agreed that while administrative expenditures were to be charged from the EC Community budget, the member states could decide whether they wanted operational expenditures to be charged from the EC budget or finance it themselves (Article J.11 TEU).<sup>3</sup> The Council quickly realised that relying on member state funding got in the way of running CFSP-actions efficiently and thus turned to the EU budget. This constituted a source of bargaining power for the Parliament that made appropriations conditional on information on how the funds were going to be used. Consequently, conflict over the foreign policy spending became a regular feature of the budgetary process (Maurer et al. 2005; Miskimmon 2012; Missiroli 2003b; Monar 1997).

After Maastricht, the EP's main source of bargaining power was the ability to place parts of the CFSP-funds in reserve, which would then require parliamentary approval to be spent (Monar 1997). In this way, the process of financing joint actions was delayed, causing considerable problems for the Council. The source of funds was obstructed, and the Council risked not being able to fund policies it had committed itself to. But although the Council complied with the demands of the EP in several Joint Actions, it refused to discuss the possibility of an Interinstitutional Agreement (IIA) on the financing and implementation of the CFSP, that would strengthen the EP's rights to information and consultation within the CFSP (Monar 1997). Finally in 1997, concurrent with the conclusion of the Amsterdam treaty, the European Parliament and the Council struck a deal on provisions regarding the financing of the CFSP, establishing an IIA (Nuttall 2000).

However, the first drafts of the Amsterdam treaty did not bode well for the EP, because these categorised CFSP-spending as compulsory expenditure. The Council saw the EP's practice of putting funds in reserve as an unacceptable interference, and was also worried that parliamentary involvement could lead to a loss of efficiency (EP4). By making spending compulsory the EP could be circumvented, thus the EP stood the risk of losing its influence over the CFSP-budget. In the end, CFSP-spending remained non-compulsory and the two parties agreed on an IIA, but in order to reach a deal, the EP had to give up its right to place amounts in reserve. This was a clear ultimatum from the Council (EP2). As pointed out by the Dutch presidency, the rights granted Parliament in the 1997 IIA was 'less than before, but far more than the Council originally had any intention of giving you' (EP-plenary, 11 June 1997). In return, the EP

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<sup>3</sup> With the Amsterdam treaty in 1997, operational expenditures were incorporated into the Community budget, except for expenses pertaining to operations with military or defence implications, subjected to the ordinary budget procedure (Article J.18 TEU).



got an IIA establishing rules on the supply of information regarding CFSP-activity as well as on the consultation of the Parliament (MEP3, EP2, EP4).

From the day that the CFSP was established, the EP's demanded rights to information and consultation in return for budgetary concessions. The 1997 IIA made explicit the procedures for how the Commission and the Council must provide the EP with estimated costs of CFSP activities as well as information about their implementation. Moreover, the EP gained the right to be informed on individual CFSP measures, even if only after they have taken place (Thym 2006). However, the EP quickly became dissatisfied with the Council's negligence of these obligations. Instead of putting funds in reserve, which was no longer an option, the EP gradually started using changes in the total amount of the CFSP-budget as a lever in order to gain influence (EP2). It took a few years before the EP used this strategy to full extent, but since 2001, it has consistently cut the funding for the CFSP each year. This has usually been accompanied by demands for more and better information (Saarilahti 2008).

In 2002, tensions arose around the funding of the EU's police mission to Bosnia-Herzegovina (EUPM). EUPM was the first mission launched by the European Union under the European Security and Defence Policy, and as such, held considerable prestige. The Council decided to launch the mission, backed by the UN, and signed an agreement with the authorities in Bosnia-Herzegovina before the Parliament had given its first reading of the budget (Missiroli 2003a). So when the Council sought to increase the CFSP-budget by 10 million Euros in order to finance the operation, the EP expected something in return. After two rounds of conciliation, the EP agreed to increase the budget in exchange for a Joint Declaration specifying the 1997 IIA's provisions on information and consultation on CFSP-actions with financial implications (Council of the European Union 2002b; Grossir 2003).

The following year, the EP threatened to withhold funding for another police mission to Macedonia (Proxima), because the Council failed to provide adequate information and for not consulting the Parliament in accordance with the 2002 Joint Declaration (European Parliament 2003). Hence, the IIA was explicated once more in an exchange of letters, whereby the Council agreed to hold at least five joint consultation meetings per year (Thym 2006). Then in 2005, the Parliament reduced the CFSP-funds again due to lack of proper dialogue and the low level of representation of the Council in the joint consultation meetings (European Parliament 2005a). Yet again, the conflict was solved by a Joint Declaration where the two parties agreed that the meetings with the Parliament would be attended by ambassadors from the Political Security Committee (PSC) and not civil servants (European

Parliament 2005b). Similarly, in 2006 the EP cut the CFSP-budget in half to make the Council commit to the provisions on the CFSP in the 2006 IIA. The dispute resulted in an exchange of letters where it was made sure that the parties' interpretations of the IIA corresponded (Saarilahti 2008: 162–164).

In sum, the EP has consistently demanded to be informed and consulted in return for its approval of the CFSP budget. These demands have produced rules and procedures regulating its relationship with the Council through a series of incremental agreements. The Council has not conceded willingly. Several of the agreements are specifications of earlier agreements that the Council has neglected. Nevertheless, the EP's influence in the CFSP has increased beyond the provisions of the treaty, i.e. Articles 21 and 28 (TEU). The provision of information has become more regular, the procedures surrounding the consultations have been clarified and the level of representation on the side of the Council has risen from Council bureaucrats to PSC-ambassadors, which means that the MEPs sit opposite actors who are closer to the political level. However, findings also indicate that the EP has become even more involved in the CFSP than one would expect from these new rights established in the IIAs.

### **A change beyond negotiated rights?**

Before the work on the Amsterdam Treaty began, the Reflection Group preparing the agenda for the negotiations reported that the EP's overall role in the policy-making process in the CFSP-area as well as its appropriate budgetary function was a contested issue among the member states (Council of the European Union 1995). The Commission's report to the Reflection Group echoed this view, adding that there was an atmosphere of 'mutual distrust' between the EP and the Council (European Commission 1995). The Council did not want the EP to interfere with the CFSP. They held parliamentary influence to be an intrusion, because it went beyond the intentions of the treaty, and because they considered the CFSP to be a policy field belonging to the member states (EP4). In addition, many governments were not 'acquainted with parliamentary involvement in foreign policy' (EP3).

By contrast, a clear majority of the interviewees described the current relationship between the EP and the Council, in the context of the CFSP-budget, as one of mutual recognition. The Council has grown to take the EP 'more seriously' and the meetings between the Council and the EP are characterised by 'more real information, real discussion' (EP2) and a more political debate (COM1). In addition, the procedures that have been developed are now also followed to a greater degree than the first years following the IIA of 1997, when the rules were routinely broken (European Parliament 1998).

Now, the Council provides the necessary documents, they explain their policies, and elaborate on them upon parliamentary request if weaknesses are pointed out. In other words, 'they come, [and] they explain things that ten years ago you could not imagine' (EP5).

Thus, the EP's influence has increased beyond that ensured through the provisions of the IIAs. This development has to do with substance rather than procedure, as well as the way the EP's role in the CFSP is perceived by the Council. First of all, the EP has succeeded in getting the Council to engage in political debate, as opposed to a mere technical, budgetary account. The first IIA and the declarations and exchanges of letters that followed concerned the procedural aspects of providing the EP with information, e.g. its timing and frequency. However, in 2005 when the Council agreed to be represented by ambassadors from the PSC in its meetings with the Parliament, the information became more political. In the words of one interviewee: 'the PSC [...], they don't really understand the budgetary procedures, they are only talking about the political issues, about operations etc.' (COU2), which is precisely what the EP requested.

This shift is also reflected by the fact that the PSC ambassadors engage more in a discussion with the MEPs during the joint consultation meetings. It differs from the situation in the early 2000s, where the Council treated the CFSP budget 'like [it was] a compulsory expenditure' (EP5). The Council representatives who came to these meetings did not say much, referring to their lack of mandate (EP5). Moreover, because technical, budgetary details no longer dominate the debates, the Commission's input has been reduced, leaving more room for political debate (COM1). Thus, the joint consultation meetings are more a pretext to discuss political matters, such as the general orientation of the CFSP (EEAS1). On occasion, issues that are not even related to the CFSP budget are discussed, such as military operations. This is somewhat of a red line for the Council, but the EP is eager to debate it in the joint consultation meetings (COM1; COU2). Consequently, although the IIAs only provide for a consultation on budgetary issues, the joint meetings have been transformed into an arena where a discussion on the substance of the CFSP takes place.

Secondly, during the last 15 years there is a growing consensus between the EP and the Council on the principles underlying the EP's negotiated rights, an aspect that is accompanied by an increasing tendency for the Council to actually respect the IIA. There is now 'genuine interest' on the part of the Council in a political dialogue with the Parliament on CFSP (COM1; EP6). The 1997 IIA established rules of cooperation that worked in theory, but not in practice (EP2). However, over time, the procedures organising the relations

between the EP and the Council have been further specified. There are detailed instructions on the calendar and agenda of meetings, who are to take part in the meetings and where they are to take place. This has made it easier for both the EP and the Council to prepare for meetings, enabling the EP to actually make a contribution, and the Council to discuss beforehand what it is prepared to share with the EP (EP2; COM1). Step by step, the EP and Council have reconciled their ways of approaching the CFSP in the context of the budget, balancing the more restrictive attitude of the Council with the EP's bid for more involvement. Both parties now respect the rules and procedures that have been established. A corollary is that the former controversy surrounding CFSP-financing has been more or less absent since 2006 (COU1; COU2; COM1; EP3; EP5).<sup>4</sup>

Taken together, this testifies to a fundamental change in the Council's perception of the EP's role in the CFSP. The IIAs have provided a formal platform where the Council and EP meet. However, an agreement to meet is no guarantee that the meeting will amount to anything. The quantity of information shared or the quality of the discussion is still reliant on the will of the participants. The Council has not only decided to meet with the EP, it has also chosen to engage with the EP in a political debate about the CFSP. Thus, the analysis shows how the budgetary procedure has been established as one of the main building blocks in the relationship between the EP and the Council in the area of CFSP. In other words, it 'complements the EP's information rights under Article 21 TEU' (Thym 2006: 115). The IIA from 2006 demonstrates this clearly in stating that: 'The Presidency will keep the European Parliament informed by holding joint consultation meetings at least five times a year, *in the framework of the regular political dialogue on the CFSP*' (author's emphasis). Thus, the joint consultation meetings that were intended to convey information on the financial implications of CFSP activities has become part of the 'political dialogue' with the EP, confirming the transformation of the interaction between the EP and the Council.

To sum up, the analysis shows that the EP, through the budgetary procedure, has gained more influence in the CFSP. During the last 15 years, a new set of rules, norms, procedures and practices has been established in the context of the budgetary procedure, which ensures the EP rights of information and consultation, amounting to a degree of influence that cannot be read from the treaties. This has expanded the provisions on financing of the CFSP (Article 28 TEU), but also the article denoting the role of the EP in the CFSP (Article 21

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<sup>4</sup> One interviewee also claimed that due to the working method that has developed on CFSP-budgeting, it was easier to reach agreement on the structural foundation for the funding of the European External Action Service (EP3).

TEU). Not only has the EP gained more influence in the sense that it has shaped the procedural rules that manage its own involvement in the CFSP. The requirement to report regularly to the EP about CFSP activity with financial implications as well as the political discussions that take place in the joint consultation meetings also give the EP a potential for exerting substantive influence by placing demands on the agenda of the CFSP (cf. Lindsay 1994). These findings echo how the EP has manoeuvred to develop its influence over international agreements. Here as well, the EP took the right to be informed and succeeded in turning it into a right to be involved (Ripoll Servent 2014: 580). Thus, the EP's increased influence in the CFSP, in the context of the budgetary procedure amounts to a process of gradual, albeit limited, parliamentarisation of the CFSP, undermining the impression of the CFSP as an intergovernmental structure. Given the common perception that the CFSP is intergovernmental, and the known resistance of the Council to increase the involvement of the EP, this raises the question how this development can be accounted for?

## **Why has the EP gained more influence in the CFSP?**

Most studies addressing the EP's increasing involvement in the CFSP have focused on how the EP's budgetary powers have been used as a bargaining tool (Keukeleire and MacNaughtan 2008; Maurer et al. 2005; Monar 1997; Thym 2006). In order for the EP to present a credible threat to the Council's policy interests, it will put to use the full range of actions available to it that allows for blocking or delaying policies. The Parliament is held to be less time-sensitive, less impatient and less sensitive to failure than other EU-actors, and can therefore be expected to delay and obstruct issues as a means to drive through its own positions (Farrell and Héritier 2003, 2007). While threats point to the potential costs of disregarding the EP's wishes, there may also be potential benefits in conceding to the EP's demands. Simon Hix (2002: 271) argues that the Council will only yield to the EP's demands if they entail 'collective *efficiency gains*'.

Another key factor is the degree of unity in the Council. IIAs, for instance, are agreed on by unanimity, which puts the EP at a disadvantage as a single member state may block agreement. Consequently, to forge alliances with member states in the Council that can speak for the Parliament is essential. Especially the big member states might tip the scale if they put their full weight behind a demand (Moury 2007). Internal disagreements in the Parliament can also be exploited by its adversaries. Thus, the degree to which the EP stands united behind its demands vis-à-vis the Council may have an impact on its bargaining strength (Kreppel 2001). Existing studies have

described how the EP's strategic use of its bargaining powers is key to the establishment of the two IIAs described in section 3.1.

However, the analysis in section 3.2 also pointed towards a change in the Council's behaviour towards the EP beyond what is proscribed by the negotiated IIAs. In order to account for this change, a bargaining perspective does not suffice because it builds on the assumption that changes in behaviour follow from cost-/benefit-calculations. Although one could argue that it was in the Council's interests to agree to the IIAs, it is less clear why the Council would involve the EP beyond the terms of the agreements they negotiated. The findings of this paper seem to be more in line with observations that the EP has come to be seen as a 'serious actor and interlocutor in CFSP' (Diedrichs 2004: 36), that the obligation to consult the EP on CFSP-matters is taken 'increasingly seriously' (Gourlay 2004: 188) and that member states display a 'grudging acceptance' of the EP's influence in foreign policy (Smith 2004: 174). How can such a change in the Council's position be explained?

Building on a communicative perspective, this paper investigates whether the increase in the EP's influence beyond the terms negotiated in the IIAs is a result of constitutive learning. In other words that the arguments presented by the EP for increasing parliamentary influence were accepted as valid by the Council, leading it to change its position towards the EP's role in the CFSP. Central to the communicative approach are the assumptions of communicative rationality and that social interaction does not equal social exchange, but is signified by a process where actors seek to reach mutual understanding through arguing, i.e. a process of reason-giving supported by justified arguments. Another central claim of communicative theory is that actors may change their preferences when they are convinced by the validity of the arguments they are presented with.

Previous studies have shown how 'arguing can contribute to learning in that actors acquire new information and are introduced to new ways of thinking about a problem and its possible solutions' (Ulbert and Risse 2005: 40). Thus, arguing is conceptualised as a 'micromechanism for learning' (Ulbert et al. 2004: 15). However, learning does not only entail thought processes, but also implies a change taking place both in the position taken by an actor, as well as in his or her reason for holding that particular position (Eriksen 2013; Eriksen and Fossum 2000, 2012). 'When actors have learned and agreement has been achieved, justified claims are adopted' (Eriksen 2013: 18). Thus, 'argument-based learning' denotes how an actor accepts the validity of an argument and subsequently acts upon it (Riddervold 2011: 564-565).

This paper suggests that the development of the EP's role in CFSP beyond negotiated agreements might be understood as a form of argument-based learning, which could be termed 'constitutive learning'. The point of departure is the 'need to see institutional mechanisms as being embedded in social processes of sense-making and reason-giving' (Eriksen and Fossum 2012: 331). 'Constitutive learning', then, offers a way of conceptualising what is described as the 'link between justification and organisational principles' (ibid.). It entails a learning process where the principles that constitute the institutional context of a given policy area, and thus that guide behaviour within it, change in accordance with arguments accepted as valid. Thus, with regards to the EP's role in the CFSP, 'constitutive learning' would mean that the Council has come to accept the arguments put forward by the EP, which has gradually changed the institutional context of the CFSP to one that allows for more parliamentary influence.

Analysing the increasing influence of the EP in the CFSP as an instance of 'constitutive learning' could shed light on the development of its involvement beyond the terms of the IIAs. Moreover, it could also explain the growing respect for the rules and procedures that have been established by the EP and the Council to manage their interaction in the CFSP budgetary process.

In cases of complete value consensus, a claim does not even have to be justified in order to be accepted (Eriksen 2013). However, there was no value consensus about the EP's role in CFSP, which is illustrated by the resistance among member states to extend the EP's role during the Convention (Norman 2003). Thus, the EP's claims for more involvement have had to rely on justified arguments. What would be the indicators of constitutive learning taking place? Looking at how this process unfolded, one would expect the actors involved to present generalised arguments supporting their claims. In this case, because the Council's resistance to the EP's influence in the CFSP has traditionally been of a principled kind, one would expect the EP (or other actors supporting the EP's case) to attempt to activate norms 'by referring to already existing standards, making analogies to similar cases, or attempting to reframe issues making such analogies possible' (Ulbert and Risse 2005: 357). Thus, arguments would likely refer to the principle of parliamentary representation, the need for a more democratic legitimate CFSP, and the EP's entitlements as a part of the budgetary authority.

When actors accept an argument as valid, one would expect them to acknowledge the substance of these arguments either in their own justifications for a position or opinion or in giving reasons for the outcome (Eriksen 2013; Risse 2004; Risse and Kleine 2010). Empirical indicators of the Council accepting the EP's arguments as valid would be that the former

adopted the justifications of the latter in giving reasons for its opinions and actions with regard to the EP's role in the CFSP. Moreover, one would expect them to act accordingly by agreeing to increase the influence of the EP in the CFSP. Finally, 'constitutive learning' depicts a process that takes place over time. Thus, a change in institutional context will likely have stemmed from a range of smaller changes. As a result one would expect to see a gradual change towards an acknowledgement of organisational principles – principles underpinning the rules, norms, procedures and practices that guide behaviour in the CFSP – that correspond to the arguments put forward by the EP to justify more parliamentary influence.

To identify the mechanisms that have led to the increase in the EP's influence in CFSP, I have traced the CFSP budgetary process over a period of 15 years using the bargaining and communicative approaches, sketched out above. This entails looking for the indicators of the different hypotheses derived and ordering the data accordingly. The material was first perused, and statements by actors categorised as acts of bargaining or justified arguments. I then looked at how these actions were received by, and subsequently how they impacted on the behaviour of, the other actors involved in the budgetary processes. Obtaining the data from different sources allowed for a crosscheck and elaboration of the information found in the written documentation as well as a comparison between the accounts of sources with different institutional affiliations.

### **From adversarial bargaining to mutual recognition**

There is an inherent source of inconsistency in the CFSP-budget, resulting from the tension between the CFSP being a second pillar policy with decision-making procedures that largely exclude supranational actors, and the EP's status as a budgetary authority. Although the Council has been responsible for the CFSP from its inception, a majority of member states have preferred financing it from the EU-budget (Miskimmon 2012). This gave the cue to the EP, who wanted to 'know what the money of the European taxpayers was spent on' (EP1). The discrepancy between the responsibility for the CFSP-policy and the CFSP-budget has also been at the core of the Parliament's argumentation for more influence in the budgetary process. The EP found it difficult to accept that they were just asked to sign a check, no questions asked (EP5).

From the beginning, the EP evoked principles of parliamentary responsibility to hold the executive accountable, as justifications for their claims for more influence in CFSP. In this vein, it argued that an IIA on financing the CFSP and how to implement the EP's right to be informed and consulted was necessary



in order for the CFSP to be conducted in a 'more democratic and more transparent way, in keeping with the respective powers of each Institution' (European Parliament 1995). The main message is that 'only the EP's participation supplies European foreign policy with sufficient democratic legitimisation' (Maurer et al. 2005: 190). In the words of one MEP:

[i]t is not reasonable to just accept everything that the Council says in a part of the budget that gets bigger and bigger, more and more controversial. [...] So we felt it was absolutely necessary to find a solution to our need for information, more information, and also, a specification of the budgetary matters.

(EP3)

Thus, the EP's justifications for its claims for more influence in the CFSP have centred on two main arguments: the EP's responsibility vis-à-vis its constituents, and the democratic legitimacy of the CFSP, which only the EP can provide.

The EP has also been willing and able to put power behind its claims. Consequently, it has used every opportunity to block and obstruct the budgetary process in order to achieve rights to information and consultation. This strategy proved successful, except during the negotiations on the Amsterdam Treaty where the EP was on the 'demanding side' (EP4). Here, the member states did not have to make a deal with the EP because it was not a full participant with the means to block or delay initiatives. Furthermore, interviewees emphasised that the Council's efficiency consideration, its lack of consistent unity as well as the EP's efforts to unite has contributed to its bargaining strength. Thus, the Council, or at least some of the Presidencies, have come to see the advantage of keeping the EP up to speed on the CFSP, because political support means an easier budgetary process (EP6; COU1; EP5).

On the other hand, interviewees also underlined that the EP's strategy to take the CFSP-budget hostage has led to frustration among the member states, and some more than others (COU2, COM1). Consequently, many also emphasised that support from member states, sympathetic not only to the EP's influence but also the idea of a common foreign and security policy, has been important: 'If all the Member States would have the position of the British and Swedish, it would have been very difficult' (EP3). But the EP is not the only actor to take advantage of internal disagreement. Presidencies have been known to try to create conflict between the EP's foreign affairs (AFET) and budget committees (BUDG), which have not always seen eye to eye on the financing of the CFSP (EP2; EP5). However, in case of conflict between the two committees, meetings

were always set up so as to be able to present a common front in conciliation with the Council. Furthermore, while most committees would not agree to big cuts in 'their own funds', AFET has demonstrated its willingness to follow the strategy of the BUDG in order to have some leverage vis-à-vis the Council (EP2).

However, the main factor accounting for the success of the EP's use of budgetary powers to threaten the Council into submission is the Council's higher sensitivity to time and failure, which has grown during the period studied in this paper. When the Council agreed to the Joint Declaration in 2002, the stakes were higher than in previous years. The police mission in Bosnia-Herzegovina was important to the image of the EU's as a global actor, and since the Council had already committed to the mission, the EP's threat to block funding presented a considerable difficulty. Similarly, in 2003, when the Council agreed to hold five yearly joint consultation meetings it was because the EP threatened to block another police mission (Proxima in Macedonia). And in 2005, when the two parties agreed the declaration on Council representation at the ambassadorial level during the meetings, this was the EP's demand in return for the use of the flexibility instrument to fund the Union's activities in Iraq and Afghanistan (PRES2). Consequently, although the EP lost its right to put funds in reserve in 1997, manipulating the total amount of the CFSP-budget became an even more efficient bargaining tool due to expanding CFSP-activity.

Starting with the IIA of 1997, the ensuing joint declarations established and gave structure to meeting places between the Council and the EP. Thus, they have supplied building blocks on which the EP could add elaborations and specifications of rules, norms, procedures and practices. Although there is no doubt that many of the procedural advances were achieved through the successful use of bargaining strategies, the formal structure also became a platform for more substantive changes. According to one interviewee, the EP's consistent argumentation for 'more transparency, more information and political dialogue' within the new rules and procedures instigated a step-wise process where the Council came to Parliament, explained, was invited, had to come, said a few words, and agreed with the EP on the agenda (EP5). As described in section 3.2, these changes are key to understand the EP's increased influence in CFSP; however, it is difficult to see them as the result of a bargaining process.

For a long time after the Amsterdam treaty, there was not much interaction between the EP and the Council. The EP would claim that the Council ignored the EP's views on CFSP during conciliation (MEP Wynn and MEP Ferber, EP-plenary, 2 July 2002), whereas the Council and Commission would claim that

the EP refused the Council's budget proposals on CFSP without saying why (EP-plenary, 23 October 2001). The Council's main concerns with involving the EP in the CFSP have traditionally been efficiency and secrecy (EP 1997<sup>5</sup>; EP3; EP4; EP6; COU2; COM1). In addition, there is the political aspect. The CFSP is nationally sensitive and largely decided by unanimity, so the Council 'felt that it would change the character of the EU and the CFSP if the Parliament would be too much involved in CFSP matters' (EP3). Nevertheless, the Council have come to understand and accept the EP's justifications for more influence in the CFSP. Firstly, it has accepted the argument that the EP needs information in order to make decisions regarding the budget and to fulfil its role as a budgetary authority (COU1; COU2; COM1). In the words of one interviewee: '[t]he EP has a right to information, it has of course, but I think they should not try to go beyond, and to look for a role of consultation' (COU2). This rests on the increasing 'understanding in the Council [...] on the need to have a dialogue with the Parliament' (COM1). In light of the EP's struggle to make the Council fulfil the conditions in the IIAs, the acknowledgement that the EP has a right to information is hardly self-evident.

According to another interviewee, the reason why the Council during the negotiations on the 2004-budget, agreed to hold five yearly consultation meetings was that the 'Council finally realised that the Parliament, as budgetary and discharge authority could not, and would not, continue to agree on the annual financing of CFSP without information and involvement on the policy itself' (EP7). In other words, the Council has come to accept the validity of the argument that the EP cannot hand out blank checks, reflecting a growing acceptance of the principle of parliamentary influence, albeit constrained, in the CFSP. The EP wanted to go even further, e.g. it wanted a right to request information on each individual mission. Although the Council did not agree to this it did acknowledge the EP's need for information.

We have the responsibility for European tax payers' money, and it is not reasonable to take decisions on rather big amounts and ever increasing amounts without actually knowing what we are deciding on. They understood the reasoning for that.

(EP3)

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<sup>5</sup> European Parliament (1997) General Secretariat Working Party Task Force on the Intergovernmental Conference: The Coordinator. Note on the European Parliament's Priorities for the IGC and the New Amsterdam Treaty: Report and Initial Evaluations of the Results, available at <[http://www.europarl.europa.eu/topics/treaty/report/part3\\_en.htm](http://www.europarl.europa.eu/topics/treaty/report/part3_en.htm)> [last accessed 22 July 2014]

Considering the Council's track record in breaking its obligations to inform and consult the EP, it could easily have done so again. The fact that it complies with the consultation exercise as defined by the EP – giving information, explaining, responding to questions – can be taken as a further indication of its acceptance of the EP's legitimate influence in the CFSP.

Furthermore, the EP has consistently wanted to get the Council to engage in political debate, as opposed to being given a mere technical report on budgetary issues. In 2005 when the Council agreed to be represented by ambassadors from the PSC in its meetings with the Parliament, it also knew that this meant more political debates. The EP argued for a higher level of representation in order to get a more political discussion, and this was understood and accepted by the Council (COM1). Moreover, the substantive changes to the joint consultation meetings that were described above underlines this observation. The main result of the change in level of representation is that when the MEPs started meeting with the PSC-chair, the discussions took on the form of political scrutiny and control (EEAS1). The turn from technical description to political discussion is also connected to the timing of information received. Council representatives meeting with the EP could not provide the 'forward-looking dialogue' that the EP wanted, 'all they did was referring to past actions' (EP6). And although several member states are adamant that the EP does not have a role to play before the instigation of missions or operations (COU2; COM1), it is now also commonplace to discuss these, and other, activities a priori before a decision is made in the Council (EEAS1). In the words of one interviewee, 'there is a much greater acceptance that, you know, we are not just discussing simply what has been decided and what has been carried out, but we also look at the future' (EP6). Thus, what started out as adversarial bargaining over the timing and frequency of information about CFSP activities with financial implications, turned into a process where the EP and the Council interact on the basis of a mutual recognition of each other's respective roles.

### A gradual development

During the last 15 years, the EP's persistent claims for more influence in the CFSP, in the context of the budgetary procedure, has led to a change in the frame of reference in which the debate about appropriate rules, norms, procedures and practices is embedded. In other words, the EP has contributed to changing the normative framing of the debate about its own influence in the CFSP. Initially, the Council did not want the EP to interfere with the CFSP, and although member states are still sceptical of parliamentary influence in the formal decision-making process, the Council acknowledges the need to consult the EP on the CFSP and its right to information about CFSP-activities.

Not only because this is necessary for the MEPs to fulfil their obligations as elected representatives, but also because 'they have a legitimate right to be part of the agreement on the CFSP budget' (COU1). In the words of one interviewee, the EP's 'core protection' was that 'a foreign policy must somehow have a democratic dimension' (EP5). Moreover, PSC ambassadors meeting with the EP have expressed that they value the cooperation with the EP also because it provides greater democratic support to what they do (EP6).

This development has also been a matter of balancing principles. Rules have been built based on principles that are important to the EP and to the Council. In addition, it has meant drawing the boundaries of the application of these rules. The Council has accepted the EP's need for information and its request for more political dialogue, "provided that certain fundamentals are clear" (EP6). And the EP on its part seems to have accepted that the budgetary process should not be used as an instrument to enhance the EP's role in the decision-making process, which is one of the Council's red lines (EP6, COM1, COU2). In other words, the EP's bid for more influence has been balanced against the Council's fear of security breaches and resistance to let the EP into the decision-making process (COM1; EEAS1; EP4). Subsequently, the role of practical experience may shape the deliberations between the Council and the EP in that every claim does not have to be justified 'all the way down' (Eriksen 2013). The Council has come to see the EP as a supporter of the CFSP budget, who 'if there is a reasonable wish [...] is willing to consider requests to increase the budget' (COM1). The elaborations of the IIAs make up the steps in this development, albeit accompanied by a gradual acceptance of the EP's influence in the CFSP.

However, the EP's basic argumentation did not change much since the mid-1990s. Its justifications for more influence in the CFSP have consistently referred to the need for the EP to be responsible to its voters and the ability to hold the Council to account for the sake of democratic legitimacy. Because this study covers 15 years, there may be factors that could have contributed to strengthening (or weakening) the EP's arguments for more involvement in CFSP. It has already been pointed out that the bargaining strategy of the EP became particularly successful because of the increasing activity in the field of foreign and security policy at the EU level. The Council is closely attached to the CFSP and makes it a priority, and it does not want to risk the situation of not being able to fund its own initiatives (COU1). Despite differences between the member states with regard to the desired scope and depth of the CFSP, they fall back on funding over the EU-budget (Missiroli 2003a: 15). Member states could in principle finance the entire CFSP with 'fresh' money over the national budgets, but that would mean running the risk of domestic opposition (COU2). Seen in the light of the argument that member states have

uploaded foreign policy to the EU level to avoid exactly that (Koenig-Archibugi 2004), the most convenient choice is to use EU money. 'It is easier for them to justify the spending on the CFSP-budget, or the budget that is already agreed' (COU2).

Thus, as the CFSP has matured, the acceptance of the increasing influence of the EP in the CFSP has strengthened as well. Years of informing and consulting the EP have not led to big leaks, or to any huge scandals, and this may have helped to win over the Council (EP3). Furthermore, the Council has realised that the EP does not always want to cut the budget, and that it is possible to work with the EP, instead of against it (COM1). The EP on its part has also matured, and does not want to 'argue on CFSP with the Council, it wants to avoid an interinstitutional war' (EP5). In the words of one interviewee, ten years ago 'everybody was still fighting for territory', now 'it should be more or less clear' (COU2). Part of this picture is a growing awareness of the complementary role the EP can play in foreign policy. EP-delegations travel frequently and widely, and because MEPs are not equally constrained as diplomats, they can convey messages to third countries that the latter cannot as well as have access to civil society actors that diplomats cannot reach (EP6), for instance on issues of human rights (COU2). Consequently, it is argued that to provide the EP with sufficient information also becomes important in order to reinforce EU foreign policy (EP6).

To sum up, the EP's arguments for more influence are not new but their effect has become gradually more evident as rules and procedures have not only been elaborated but also implemented. Over time, the involvement of the EP has become institutionalised through the establishment of meeting places with the Council as well as the building consensus on the principles underpinning the rules, norms, procedures and practices that constitute those meeting places. In addition, the development of the CFSP, which has led to a greater reliance on the CFSP budget, seems to have strengthened the effect of EP's arguments as well. The funding situation of the CFSP has become more settled, which has accentuated the need to cooperate with the EP as the other part of the budgetary authority.

At the same time, in order to confirm the connection between the change in the institutional context and the change in the effects of the EP's argument, more detailed data is required. Thus, the above analysis only gives an indication of how and why the EP's arguments have been gradually accepted. It is almost impossible to retrieve the amount of data needed to identify exactly *when* the number of member states that became convinced of the validity of the EP's arguments reached the level that tipped the scale towards change. Or *when* the number of incremental changes reached a point where

their cumulative effect generated a change to the organisational principle underpinning the interinstitutional relationship between the EP and the Council in CFSP. Still, if the small changes add up to a greater whole that coincides with a manifest change in the institutional context, and both are justified by mutually acceptable arguments, it can be seen as a sign of 'constitutive learning'.

## Conclusion

This paper has shown how the EP has increased its influence in the CFSP through participating in the budgetary process. The development amounts to a parliamentarisation of the CFSP. It has not only led to new parliamentary rights, but also to a profound change in the Council's behaviour towards the EP and its influence in the CFSP. Through the budgetary process, the interaction between the EP and the Council has become a regular feature of the CFSP policy-making process, strengthening the provision of information and practice of consultation, but also enabling the EP to exert influence on agenda setting and control. Thus, the current norms and practices go far beyond the treaty in allowing the EP to be involved and potentially influence the policy-making process. In that sense, the budgetary process has transformed the CFSP from a member state stronghold to a policy area more open to parliamentary scrutiny and input.

Moreover, the findings point to a level of involvement that exceeds the terms of what the EP and Council have agreed upon in negotiations. The two parties have moved from a situation of mutual distrust to one of mutual recognition, where substantial information is shared and real, political debate takes place. Secondly, a growing consensus on the principles underlying the EP's new rights in the CFSP has developed, accompanied by an increasing tendency on the part of the Council to respect these rights. Using a communicative approach, this paper showed that it is possible to trace the change in the Council's behaviour and the growing consensus on the principles underlying the EP's new rights in the CFSP, back to the arguments presented by the EP. The EP has consistently argued for more information and influence with reference to principles of parliamentary democracy, arguments that the Council has come to accept.

The findings of this paper are puzzling given the traditional view of the CFSP being an intergovernmental policy field. Following an intergovernmental logic, it would primarily be the task of national parliaments to control their governments' foreign policy activities, also at the European level. An area such as foreign policy, embodying the principle of national sovereignty,

would not require scrutiny by a supranational parliament (Sjursen 2011). However, this paper has demonstrated that although CFSP is a domain that member states like to keep under control, it must nevertheless adhere to democratic principles. Furthermore, the CFSP may be dominated by member states, but it cannot be depicted as entirely intergovernmental. The acknowledgement that the EP has a legitimate right to be involved in and influence the CFSP testifies to a policy that has moved beyond intergovernmentalism.

Moreover, the fact that the Council has acted on arguments pertaining to principles of democratic legitimacy supports this conclusion and suggests that even the member states themselves do not regard the CFSP as completely intergovernmental. The EP's argumentation has clearly contributed to redefine the institutional context of the EU's foreign policy. In other words, the foundation of the EP's involvement in the CFSP has changed in accordance with the 'normative force of the parliamentary principle' (see Eriksen 2009: 216), suggesting that a process of constitutive learning has taken place. Thus, based on the analysis of this paper, one can conclude that the EP has advanced its role in the CFSP beyond designated treaty powers. Still, further investigation is needed to get a better sense of if and how the EP is able to bargain in CFSP when it cannot rely on budgetary powers. Similarly, more research is required to see how different justifications regarding the role of the EP are weighed against each other. This could shed light not only on the possibilities and constraints with regard to the EP's role in CFSP, but also more generally on the parameters of democratic influence in foreign policy.



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European Parliament, the Council and the Commission (1997) Interinstitutional Agreement between the European Parliament, the Council and the European Commission of 16 July 1997 on provisions regarding financing of the common foreign and security policy, OJ C 286, 22 September 1997.

- (2006) Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management, OJ C 139, 14 June 2006.

## **Appendix**

### **Interviews:**

EP1: MEP, 22 July 2010

EP2: EP-official, 30 August 2010

EP3: MEP, 01 September 2010

EP4: EP-official, 02 September 2010

EP5: EP-official, 02 September 2010

EP6: EP-official, 02 September 2010

EP7: MEP, 30 September 2010

PRES1: Representative of the Danish Presidency, 2002, 24 May 2011

PRES2: Representative of the UK Presidency, 2005, 10 June 2011

COM1: Commission-official, 31 May 2011

COU1: Council-official, 23 May 2011

COU2: Council-official, 25 May 2011

EEAS1: EEAS-official, 31 May 2011

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