

## The parliamentary mandate

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### The length of the term of office

Members of the ECSC Common Assembly were appointed annually by the national parliaments (Article 21). The EEC and EAEC Treaties did not set a limit on the length of the term of office of Assembly Members. The national parliaments were therefore free to fix the length of the term of office. In principle, representatives remained in office until the expiry of the mandate given to them by the Member State they represented. The mandate lapsed on death or resignation or when Members were not re-elected to their national parliaments.

The problems created by the existence of terms of office of different lengths were resolved once the Assembly was elected by universal suffrage. The Act of 20 September 1976 concerning election by direct universal suffrage laid down that the term of office of Members of the European Parliament should be five years (Article 3 of the 1976 Act, which became Article 5 in 2002). This provision was included in a new paragraph (3) inserted by the Treaty of Amsterdam in Articles 21 ECSC, 138 EC and 108 Euratom: 'Representatives shall be elected for a term of five years.' The Treaty of Lisbon takes up this principle in Article 14 (3) TEU.

The term of office begins and expires as laid down in the Act, i.e., at the same time as the five-year period beginning at the opening of the first session following each election. This period can be extended or reduced by a Council decision.

The term of office of Members of the European Parliament still ends on death or resignation or on expiry of their term of office. Provisions for the vacant seat are made for the rest of the five-year period according to the procedure set up by each Member State. If the term expires because of the application of national legislation (for example as a result of incompatible mandates), the relevant national authorities must inform the European Parliament. Conversely, when a seat becomes vacant as a result of a resignation or death, the European Parliament immediately informs the relevant national authorities so that the vacant seat can be filled.

The office of Member of the European Parliament is representative (Article 4 of the 1976 Act, which became Article 6 in 2002): Members of the European Parliament may not be bound by any instructions. Consequently, resignation must not breach the spirit or the letter of the Act of 20 September 1976. This was the case, however, with the compulsory rotation or 'tourniquet' system introduced in France by the RPR party in 1979 following the first European elections. Under this system, each Member of the European Parliament had to resign after a year so as to enable others on the list to spend a year in office in turn.<sup>1</sup> The appointment of new Members under this rotation system, although challenged by other Members of the European Parliament, was not deemed to be in breach of the 1976 Act or the European Parliament's Rules of Procedure.<sup>2</sup> The Statute for Members of the European Parliament, adopted by decision of the European Parliament in 2005, states that any agreements concerning the way in which the parliamentary mandate is to be exercised are null and void.<sup>3</sup> Moreover, according to the European Parliament's Rules of Procedure, any resignation must be submitted to the responsible parliamentary committee for consideration. If the committee considers that the resignation is not in accordance with EU law, the full European Parliament is informed and must decide whether or not to establish the vacancy.<sup>4</sup>

Members remain in office until the opening of the first sitting of the European Parliament following

<sup>1</sup> Pozzi, Jérôme, 'La famille gaulliste et les élections européennes de juin 1979', in *Les Cahiers de l'IRICE*, 2009, No 4. [Online] Source: <http://irice.univ-paris1.fr/spip.php?article518>, consulted 25 February 2014.

<sup>2</sup> European Parliament. Report drawn up by Hellmut Sieglerschmidt, on behalf of the Committee on the Verification of Credentials, on disputes concerning the validity of appointments in connection with the 'tourniquet system', 24 June 1982, document 1-398/82.

<sup>3</sup> Decision (2005/684/EC, Euratom) of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament, OJ L 262 of 7 October 2005, p. 1.

<sup>4</sup> Rule 4 (3) of the European Parliament's Rules of Procedure.

the elections.

### **The nature of the parliamentary mandate**

The European Parliament is composed of representatives of the Union's citizens (Article 14 TEU). Members have a representative mandate. They exercise their mandate independently (Article 2 (1) of Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005;<sup>5</sup> Rule 2 of the European Parliament's Rules of Procedure). They may not be bound by any instructions (from national authorities, Community institutions, private interest groups, non-governmental organisations, etc.) or receive a binding mandate (Article 4 of the 1976 Act, which became Article 6 in 2002).

The independence of their mandate justifies the identification of various incompatibilities to avoid conflicts of interest.

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<sup>5</sup> OJ L 262 of 7 October 2005, p. 1.