

zens of the Union, but also to “any natural or legal person residing or having its registered office in a Member State”. Persons directly affected may submit petitions to the Parliament’s Committee on Petitions concerning grievances falling within the Community’s competence and field of activity. The Committee reports to the European Parliament at the conclusion of its inquiries.

The Office of Ombudsman is administered under the auspices of Parliament which is also responsible, in consultation with the other institutions, for the appointment of the Ombudsman. The mandate of the Office of Ombudsman is as a completely autonomous body with powers to receive complaints concerning instances of maladministration in the activities of the institutions¹², and to conduct the necessary inquiries. To this end, the Ombudsman has to have access to all needed information detained by the Council and the Commission. This access to information, in theory, extends to documents kept by national authorities. If the Ombudsman finds such a case, the matter is referred to the institution concerned which then has three months to respond with its view. On receipt of this response, the Ombudsman then sends a report to the Parliament and to the institution concerned.

Ultimately, it is the Parliament that takes any formal action it considers necessary pursuant to the reports of either body – neither of which have any formal right to ensure compliance or bring legal proceedings. The Parliament generally restricts its action to exerting political pressure; it has the right to bring proceedings before the ECJ, but this right is limited to protecting its own prerogatives.

Parliament’s Participation in the Budgetary Process

The Parliament has considerable powers over the Community budget. Within established parameters, it may increase expenditure without Council approval, and may re-distribute funds (within defined limits) among the various sectors. This power to re-distribute funds has been extended to allocating funds to new budget items not covered by existing Community policies. It may also – for important reasons – reject the draft budget, acting by a majority of its members and 2/3rds of the votes cast, and request that a new draft budget be submitted. The Parliament is the body which actually adopts the Community’s budget.

¹¹ The Right of Petition was formally incorporated into the EC Treaty by the TEU, which also created the Community Ombudsman.

¹² Excepting the ECJ and the Court of First Instance in their respective judicial capacities.

Parliamentary changes can be overruled by the Council with regard to “compulsory” expenditure – agriculture, administrative refunds to Member States and spending with respect to third country agreements. However, any changes made by the Parliament to Commission spending plans in areas of non-compulsory expenditure are immune from Council interference unless they exceed the pre-determined limits. In the interests of increasing its powers in this context, the Parliament has sought the classification of expenditures as non-compulsory where the classification is not explicit. The Parliament also exercises control over budget implementation, in conjunction with the Council and assisted by the Court of Auditors.¹³

Part Four: The Legislative Process After Maastricht

European Community Legislation

Within the EU, Community areas, all under the responsibility of the EC, must be the object of legislative proposals based on a legal basis determined by the Treaty.

This legal basis identifies the decision-making procedure which will be used in each circumstance.

The Role of the Community Institutions

The Commission has the sole right to initiate legislation in the domain of the Community affairs, particularly in relation to the internal market, and ensures the proper implementation of approved proposals. As the body technically responsible for the initiation of all Community policy, the Commission enjoys certain strategic advantages, but it does not normally approve legislation. The Commission is also responsible for the representation of the Community internationally in certain areas.

The Council of the European Union, in conjunction with the European Parliament in a number of areas, acts as ultimate legislator with the final authority to decide whether to adopt measures proposed by the Commission as new Community legislation. The

¹³ For a more detailed analysis of the budgetary procedure refer to Appendix 1.