

Finn Laursen is Professor of International Politics in the Department of Political Science, University of Southern Denmark, Odense. He holds a Ph.D. from the University of Pennsylvania (1980). He has held research fellowships at the European University Institute, Florence, and Princeton University. Previous appointments include the London School of Economics (1985-88) and the European Institute of Public Administration, Maastricht (1988-95). He was head of the Thorkil Kristensen Institute, Esbjerg, 1995-98.



Finn Laursen

THE EUROPEAN AFFAIRS COMMITTEE OF THE DANISH FOLKETING: 'Mini-Parliamentarism' in Operation

by

Finn Laursen

FURTHER INFORMATION



Centre for European Studies
University of Southern Denmark
Main Campus: Odense University
Campusvej 55
DK-5230 Odense M
Denmark

E-mail: daa@sam.sdu.dk
Tel. +45 65502111
Fax. +45 66158790
Website: www.cfes.dk



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University of Southern Denmark

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I. Introduction¹

The Danish Parliament, the *Folketing* has developed a rather unique system of control and legitimization of the government's EU policy. A Market Committee, since 1994 called the European Affairs Committee, was established when Denmark decided to joined the then existing EC in 1972.² This paper will outline the role of the European Affairs Committee in Danish EU policy making. This role is in many ways stronger than that of similar committees in other national parliaments in the EU. EU affairs are serious business in the domestic politics of Denmark, and the Parliament has tried from the very beginning of Denmark's membership of the EC to control the government rather tightly. The Danes see this as a way of increasing the democratic legitimacy of European integration. Indeed, when Europeans talk about a 'democratic deficit' in the EU the Danes tend to think of the role of national parliaments.

On the other hand, the Danes have usually hesitated when it came to strengthening the European Parliament. That avenue to more democracy has been seen as 'more Union', something the sceptical Danes have not been enthusiastic about. Recently, however, the idea that the European Parliament (EP) could be an ally for Denmark in a quest for more 'progressive' environmental, social, and consumer protection policies has played a certain role.

¹ This paper is a slightly revised version of the author's contribution to a TEPSA project directed by Professor Wolfgang Wessels and Andreas Maurer. The author gratefully acknowledges the assistance of the EU Information Office of the *Folketing* with information for this chapter.

² Actually the committee's existence goes back to the first Danish application for membership in 1961.

Denmark has been a constitutional monarchy since 1849. Since 1901 the practice developed that the King (or Queen) appoints a cabinet that does not have a majority in the *Folketing* against it. This kind of 'negative' parliamentarism was included in the current constitution from 1953. There is no formal investiture. The King will consult the party leaders and decide who is most likely to be able to form a government that will have the confidence of the *Folketing*. As long as a government is not met with a vote of no-confidence it can remain in office. But it can also call an election any time. Elections must take place at least every four years.

Since 1953 Denmark has had a unicameral parliament. Denmark is also a unitary state, although rather decentralised.³ Lijphart has characterized Denmark as having weak judicial review.⁴ Indeed, it is a popular saying that apart from the constitution there is no one above the Danish *Folketing*. Denmark is, however, a very corporatist state.⁵ Interest groups actively take part in the preparation of EC legislation through 35 EC Special Committees established within the administration.⁶

Another important element of the Danish political system is the fact that there are usually several political parties represented in the *Folketing*. The party system is highly fragmented, or has been so at least since 1973. No single party has ever had a majority since the beginning of the 20th century. Denmark therefore usually has coalition governments, but these will often not have a majority of the votes in Parliament. They are thus

³ Arend Lijphart, *Patterns of Democracy* (New Haven and London: Yale University Press, 1999), p. 189. Fiscal decentralization in Denmark is higher than in some federal states. See Michael Gallagher, Michael Laver and Peter Mair, *Representative Government in Modern Europe*, 3rd ed. (New York: McGraw-Hill, 2001), p. 167.

⁴ Lijphart, op. cit., p. 226.

⁵ *Ibid.*, p. 177.

⁶ More on this in Finn Laursen, "Denmark: In Pursuit of Influence and Legitimacy," in Wolfgang Wessels, Andreas Maurer and Jürgen Mittag (eds.), *Fifteen into One?: The European Union and the Member States* (Manchester: Manchester University Press, forthcoming).

minority governments, which are obliged to build further coalitions to get legislation passed by the Parliament. Often certain parties can be relied on by the government to play this role of support, but not always. Indeed, Denmark has only had one majority coalition government since Denmark joined the EC in 1973, viz. the government formed by Poul Nyrup Rasmussen in January 1993, which was a coalition of the Social Democratic Party, the Social Liberal Party (*Radikale Venstre*), the Centre Democrats and the Christian People's Party. But at the elections in September 1994 the Christian People's Party did not get the required two percent of the votes to get represented and Poul Nyrup Rasmussen's second government was a minority government of the three remaining parties.⁷ Later the Centre Democrats dropped out, so the current government is a coalition between the Social Democrats and the Social Liberals.

Among the political parties four are known as the old parties. Three of them date back to the late 19th century, viz. the Liberal Party (*Venstre*), the Conservative Party and the Social Democratic Party. The Social Liberal Party (*Radikale Venstre*) dates back to the beginning of the 20th century. The latter has often formed governments with the Social Democrats, but also sometimes with the Liberals and Conservatives. Being in this middle swing position has given the party influence out of proportion with its size.

Fragmentation of the party system increased dramatically at the elections in 1973, the first election after accession, when representation in the *Folketing* increased from five to 11 parties.⁸ The five parties represented in the Parliament before were the four so-called old parties

⁷ David Arter, "The Folketing and Denmark's 'European Policy': The Case of an 'Authorising Assembly?'," in Philip Norton (ed.), *National Parliaments and the European Union* (London: Frank Cass, 1996), pp. 110-123, at p. 121.

⁸ Arter, "The Folketing and Denmark's 'European Policy'", pp. 117-8

and the Socialist People's Party. Of these only the Socialist People's Party had officially been against membership, although the Social Democrats and Social Liberals were internally split on the issue of membership. Two small anti-EC parties, which had been represented before, now entered the Parliament again, viz. the Communists and the Justice Party. Also a new anti-EC party, the Left Socialists got enough votes to enter the Parliament. The final two parties that entered the Parliament in 1973 were the Centre-Democrats, who had split from the Social Democrats six weeks before the election, and Glistrup's Progressive Party. The Centre-Democrats were – and remain – strongly pro-integration. The Progressive Party was elected on an anti-tax and anti-bureaucracy platform.

The current *Folketing* was elected on 11 March 1998. No less than 10 parties got more votes than the 2% threshold. Biggest was the Social Democratic Party with 36% of the vote, followed by the Liberal Party, which got 24% of the vote. Then followed the Conservative Party with 8.9%, the Socialist People's Party with 7.5% and the Danish People's Party with 7.4%. Further down the list were the Centre-Democrats, the Social Liberal Party, the Red-Green Alliance (Unity List), the Christian People's Party and the Progress Party (see Table 1).

Table 1: Parties Parliamentary Representation of Danish and Groups

Seats won in the election and % of the total votes in Denmark	Folketing election 11 March 1998		European Parliament election 10 June 1999	
	Seats	% of vote	Seats	% of vote
Social Democrats	63	36.0	3	16.5
Liberal Party	42	24.0	5	23.4
Conservative Party	16	8.9	1	8.5
Socialist People's Party	13	7.5	1	7.1
Danish People's Party	13	7.4	1	5.8
Centre Democrats	8	4.3	0	3.5
Social-Liberal Party	7	3.9	1	9.1
Red-Green Alliance	5	2.7	NP	
Christian People's Party	4	2.5	0	2.0
Progress Party	4	2.4	0	0.7
June Movement	NP		3	10.1
People's Movement against the EC Union	NP		1	7.3
Greenland*	2			
Faroe Islands*	2			
Total number of seats	179		16	

NP: did not participate

* Greenland and the Faroe Islands have home rule and are not members of the European Union.

Source: Ministry of Foreign Affairs, "Political Parties in Denmark" and "The referendum in Denmark on 28 May 1998 on the ratification of the Amsterdam Treaty," downloaded from the Ministry's home page <http://www.um.dk>. "Europa-Parlamentsvalget den 10. juni 1999," <http://www.im.dk/ev1999/evland.htm>

The Social Democrats and the Social Liberals, which have 63 and seven seats respectively in the Parliament, form the current government. With a total of only 70 seats out of 179 it is clearly a minority government. On the left they have two parties that are rather integration sceptical, viz the Socialist People's Party and the Unity List (Red-Green Alliance). Although the leading opposition parties, the Liberals and Conservatives, are pro-integration, there are two parties on the right side

that are anti-integration, viz the Danish People's Party and the Progress Party. Given the scepticism of the Danish voters the old established parties have to be attentive to the anti-integration sentiment of the electorate.

For comparison Table 1 also includes the results of the election to the European Parliament on 10 June 1999. Two anti-integration groups, the June Movement and the People's Movement against the EC Union, take part in EP elections. In 1999 they received more than 20% of the votes and 25% of the Danish seats in the EP. These two groups, however, do not take part in national elections.

Denmark's relationship with the EU is further complicated by the frequent use of referenda in connection with major EU decisions. One could argue that Denmark has two political systems, representative democracy in respect to on-going legislation and direct democracy in connection with decisions affecting Denmark's 'constitutional' relations with the EU. The use of referenda is first of all due to article 20 of the Danish constitution that requires 5/6th majority in the *Folketing* to transfer competences to supranational institutions or a simple majority plus a confirming referendum. However, in 1972 when a referendum was used to confirm Denmark's accession to the EC the then Prime Minister Jens Otto Krag (Soc. Dem.) had decided beforehand that there would be a referendum even if there were to be a 5/6th majority in the *Folketing*. The party was split on the issue so Krag decided to say that the people would in any case decide. Later the Single European Act, the Maastricht Treaty and the Amsterdam Treaty have all been ratified after referenda. Indeed, in the case of the Maastricht Treaty a narrow majority first rejected the treaty in 1992, only to accept it in 1993 after Denmark secured various special arrangements at the Edinburgh meeting of the

European Council in December 1992. These concerned to the third phase of the EMU, defence policy, Justice and Home Affairs cooperation and Citizenship of the Union. Denmark would not take part in the third phase of Economic and Monetary Union (EMU) and defence policy. Denmark would only take part in intergovernmental JHA cooperation, and Citizenship of the Union should only be a supplement to national citizenship.

Due to the stipulation in the Amsterdam Treaty that Citizenship of the Union is a supplement to and does not replace national citizenship the latter Danish exemption is now an integral part of the treaty. According to promises by the politicians the remaining three exemptions can only be changed through referenda. Recently, on 28 September 2000, the Danish people voted 'no' in a referendum to Danish participation in the Euro despite the advice of the government and leading opposition parties, the Liberals and Conservatives as well as the Centre-Democrats, to vote 'yes'.

The political elite in Denmark is up against a sceptical public. Opinion polls show that Danes support economic integration, but are sceptical of political integration. Prior to the Maastricht referendum in 1992, 69% of the Danes supported abolition of trade barriers and 74% supported the internal market, but only 38% supported a common foreign policy, 30% a common defence policy and 34% a single currency.⁹ The latest Eurobarometer shows that two thirds of the Danish electorate do not want the EU to gain more influence in their everyday lives. However, 53% of the Danes believe that the EU is "a good thing".¹⁰

⁹ Finn Laursen, 'Denmark and the Ratification of the Maastricht Treaty,' in Finn Laursen and Sophie Vanhoonaeker (eds.), *The Ratification of the Maastricht Treaty* (Dordrecht: Martinus Nijhoff Publishers, 1994), pp. 61-86.

¹⁰ Reported in *Jyllands-Posten*, 27 October 2000.

Table 2: Danish referenda on EC/EU questions

Date	Topic	Participation In %	Yes in %	No in %
2 October 1972	Danish membership	90.1	63.3	36.7
17 February 1986	Single European Act	75.8	56.2	43.8
2 June 1992	The Maastricht Treaty	83.1	49.3	50.7
18 May 1993	The Maastricht Treaty and The Edinburgh Agreement	86.5	56.7	43.3
28 May 1998	The Amsterdam Treaty	74.8	55.1	44.9
28 September 2000	Adherence to the Euro	87.5	46.9	53.1

Source: Hans Branner and Morten Kelsrup, 'Denmark's Policy towards Europe in a Historical and Theoretical Perspective,' in Hans Branner and Morten Kelsrup (eds.), *Denmark's Policy towards Europe after 1945* (Odense: Odense University Press, 2000), p. 17, and *Morgenavisen Jyllands-Posten*, 30 September 2000, 2. section, p. 5.

Returning to the Parliament: Since the very beginning of Danish membership of the European Communities in 1973 the *Folketing* has exercised more control over European policy than any other national parliament in the EC/EU. A Market Relations Committee (*markedsudvalg*) was established to implement the Accession Act of 1972. According to article 6 of the Accession Act the government was obliged to inform a committee of the *Folketing* of EC decisions that were directly applicable in Denmark or required the action of the *Folketing*.¹¹ From the spring of 1973 a system developed which in reality included the issuing of binding mandates to ministers negotiating within the Council of Ministers. This happened in response to a political crisis. The minister of agriculture returned from Brussels with a negotiation result concerning

¹¹ Jørgen Albæk Jensen, 'Prior Parliamentary Consent to Danish EU Policies,' in Eivind Smith (ed.), *National Parliaments as Cornerstones or European Integration* (London: Kluwer Law International, 1996), pp. 39-48.

agricultural prices that shocked the *Folketing*. When further it turned out that he could not explain the result the Liberals and Conservatives forced the government to accept the mandate-giving procedure in March 1973.¹²

The original name, the Market Committee, corresponded to the original concept of integration in Denmark. Integration was seen as a relatively limited economic matter. In 1994 the committee changed its name to the European Affairs Committee (*Europaudvalget*) which, after the entry into force of the Maastricht Treaty, seemed more appropriate, although it would have been more correct to call it the EU Committee since its remit is limited to the EU and not the rest of Europe.

II. Parliamentary Involvement in EC/EU Affairs 1993-1999¹³

Since the entry into force of the Maastricht Treaty the government has continued to have to seek a mandate for important matters falling under the EU's first pillar. For Common Foreign and Security Policy (CFSP) matters the government informs the European Affairs Committee, but the Parliament's Foreign Affairs Committee is also informed about these matters. Similarly, Justice and Home Affairs (JHA) matters are dealt with both by the European Affairs Committee and the Legal Affairs Committee of the Parliament. Whenever a mandate for negotiation is

¹² Kaare R. Skou, *Folketspres i arbejde* (Forlaget Venues, 1995), p. 143.

¹³ The first part of this section relies on Finn Laursen, 'Parliamentary Bodies Specializing in European Union Affairs: Denmark and the Europe Committee of the *Folketing*,' in Finn Laursen and Spyros A. Pappas (eds.), *The Changing Role of Parliaments in the European Union* (Maastricht: European Institute of Public Administration, 1995), pp. 43-54.

needed it will have to be given by the European Affairs Committee, though.¹⁴

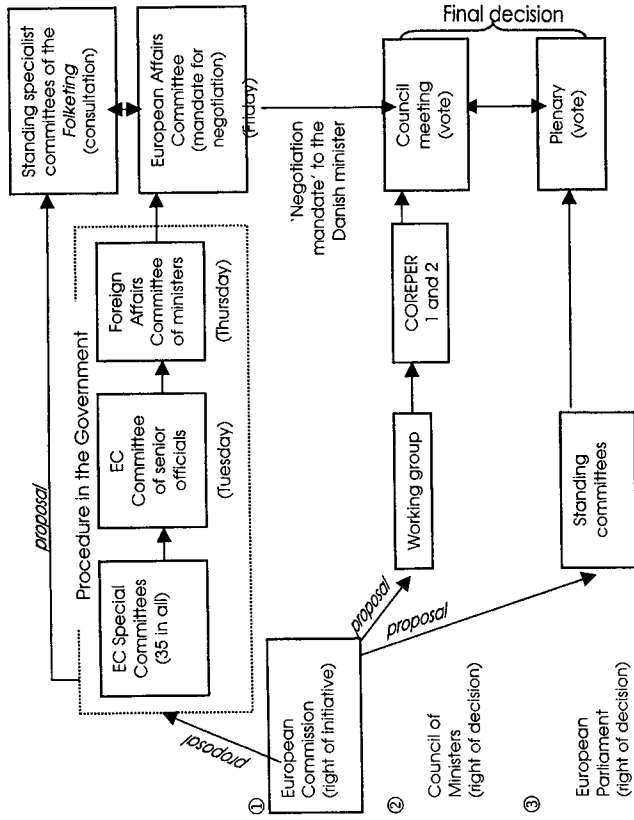
The European Affairs Committee has 17 members (and 11 deputies) chosen proportionally among the parties represented in the *Folketing*. Politically the Committee thus mirrors the Chamber. In many ways it has become a kind of mini-parliament. Indeed, in a parliamentary debate in October 1974 the leader of the Social Democratic Party, Anker Jørgensen, referred to it as a *minifolketing*.¹⁵ It plays a central role in accepting EU legislation in Denmark. This legislation (regulations and directives) is as binding as normal Danish legislation, but it does not go through the normal legislative process with three readings in the plenary of the parliament and deliberations in specialised standing committees in between. So although the European Affairs Committee is one of 24 standing committees it has a special role. A special kind of 'mini-parliamentarism' has developed for EU policy making in Denmark. Given party discipline in Denmark, and the fact the parties tend to send their more influential members to the European Affairs Committee, a government wanting to survive politically knows that it will have to listen to the committee.

The European Affairs Committee normally meets on Fridays. Ministers will appear before the Committee and present their proposals verbally. "If there is no majority against the mandate, the Government negotiates

¹⁴ Peter Nødergaard, *Organiseringen af Den Europæiske Union* (Århus: Handelshøjskolen's Forlag, 1994), p. 302, and information brochure from the secretariat of the European Affairs Committee, "The European Affairs Committee," Copenhagen, October 1996, p. 10.

¹⁵ Quoted in Jens Albæk Jensen, *Parlamentarismens statsretlige betydning: Det parlamentariske principps betydning for forholdet mellem Folketing og regering* (Copenhagen: Jurist- og Økonomforbundets Forlag, 1997), p. 134.

Fig. 1: Organogram of Danish EU-Policy Making Process



Source: Adapted from presentation by Niels Hoffmeyer at the European Institute of Public Administration (EIPA), Maastricht, June 1994, in Spyros Pappas (ed.), *National Administrative Procedures for the Preparation and Implementation of Community Decisions* (Maastricht: EIPA, 1995), p. 14.

on this basis.¹⁶ The practice is thus to apply the same kind of 'negative' parliamentarism as applies to the formation of governments. Since 1973 the practice has developed that the chairman counts the votes represented by the members of the European Affairs Committee. It takes 90 votes or more against to refuse a mandate for negotiation (i.e. more than half of the 179 members of the *Folketing*).

¹⁶ Report of the Market Relations Committee of March 29, 1973, English translation quoted from "The European Affairs Committee," Copenhagen, October 1996, p. 3.

The European Affairs Committee has extensive access to EC documents. Documents that touch on the security of other Member States can be read in the office of the Chairman of the Committee. For this reason members have to accept an obligation of secrecy. The government has the obligation to keep members informed about current proposals for EC legislation. The Committee can request a written orientation from the government about the negotiation situation related to any issue and it can request a meeting with the competent minister at any time.¹⁷

Table 3: Membership of the European Affairs Committee on 2 October 2000

Party	No. of members
Social Democratic Party	5
Liberal Party	4
Conservative Party	3
Socialist People's Party	1
Danish People's Party	1
Centre Democrats	1
Social Liberals	1
Red-Green Alliance (Unity List)	1
Total	17

Source: Compiled by the author. List of current members can be downloaded from the home page of the Danish parliament www.folketinget.dk

Usually 2-4 ministers come to a meeting, each going through 10-20 points, including proposals on the agenda of the Council meetings in Brussels the following week. Civil servants accompany ministers. The

¹⁷ Nedergaard, *Organiseringen af Den Europæiske Union*, 1st ed., pp. 305-306.

Prime Minister's Office and the Foreign Ministry have civil servants present permanently.¹⁸

Apart from presenting the negotiation positions the government also informs the European Affairs Committee about proposals under consideration. It is usually only during the last part of the legislative process in the EU that the government presents a negotiation position. At this point in the process the possibilities for influence are of course rather restricted. But the Committee does have the option of requiring the government to change its negotiation position even then.

By starting the discussion in the European Affairs Committee as soon as the Commission starts considering proposals or puts forward its proposals the government can try to be sure that it knows the feelings and attitudes of the parliamentarians. It is estimated that by the time a negotiation position is put forward it is accepted in more than 90 percent of the cases.¹⁹

However, "it does not happen infrequently that the Government changes its original mandate for negotiation during the talks with the Committee - or at least adapts it to meet the points of view which are likely to attract a majority in the Committee." The same source goes on to say that "the Danish civil servants who take part in the negotiations at an early stage - often before the Commission submits its proposal - take into consideration the fact that the Government shall at a given hour have the result approved by the political forum constituted by the

¹⁸ See also Ove Fich, 'Markedsudvalget - dens styrke og svagheder,' *Udenrigs*, Vol. 48, No. 4 (1993), pp. 63-64.

¹⁹ Nedergaard, *Organiseringen af Den Europæiske Union*, 1st ed., pp. 307-308. At the moment it is not possible to produce exact statistics on this, but it has been decided recently to publish the reaction of the parties to the negotiation mandate after the decisions in the Council at the same time as the government reports back to the European Affairs Committee on the deliberations in the Council. So in the future we will get a clearer picture on who supports the government and who do not. See 'Beslutningsreferat fra Europaudvalgets møder,' Info-note 1 34, 20 November 2000.

European Affairs Committee.²⁰ Put differently, anticipated reactions are important in the policy-making process. Civil servants try to anticipate reactions from the European Affairs committee to protect the government against political problems.

It should be mentioned that the European Affairs Committee receives deputations, as do other standing committees of the *Folketing*. This gives interest organisations an additional access point to the policy-making system.

The 'No' in the Danish referendum on the Maastricht Treaty in June 1992 led to a discussion about transparency in the EU. This discussion also affected the Danish system to some extent. In a report of 19 March 1993 it was decided to have a press briefing after each meeting of the Committee. At this briefing the Chairman of the Committee informs the press about the cases where the government has had its negotiation position accepted, and normally also gives the main lines of that position. Information also includes the cases where there is a majority against the government position. Furthermore it includes information about the position taken by the political parties, whose representatives can take part in the press meeting and explain their positions. In cases where there is a decision about secrecy the Chairman will simply state that the government has received a negotiation mandate but that it is confidential until a final decision has been made.²¹

Meetings of the European Affairs Committee still take place behind closed doors. Shorthand minutes have been taken since 1984, but they only go to the Chairman and one representative of each party represented.

²⁰ 'The European Affairs Committee,' October 1996, p. 4.

²¹ Finn Laursen, 'Denmark and the Ratification of the Maastricht Treaty,' p. 76.

The lack of openness of the meetings of the European Affairs Committee has been regularly criticised, especially by the Socialist People's Party. Another type of criticism has come from the other side of the political spectrum, with the Progress Party saying that the Committee is the only parliamentary control of hundreds of changes in Danish law, which cannot even be changed later by the *Folketing*.

The Danish system has not answered the question whether EU policy is foreign or domestic policy. A particular issue that rises from this tension is the question of which role the specialist committees (*fagudvalg*) of the *Folketing* should play. These committees will usually have more technical expertise than the more 'generalist' European Affairs Committee. A first response to this problem was sharing of information. A practice was started whereby the agenda of the European Affairs Committee was sent to the chairmen on the other standing committees. In the case of the Environment and Regional Planning Committee a practice of systematically asking for an opinion on proposals for environmental legislation developed in the 1980s during the years of a 'green' majority of Social Democrats, Social Liberals and People's Socialists under the Conservative-Liberal government of Poul Schlüter.²²

In the report of 19 March 1993 it was also decided to draw in the specialist committees to a greater extent.

A report from the European Affairs Committee of 20 May 1994 continued this trend and sought further association of specialist committees with the process of considering EU legislative matters.²³

²² Fich, 'Markedsudvalget,' p. 66. Please place the number of the notes in the text at the end of a sentence if possible.

²³ Nicole Ameline, 'Les Parlements et l'Europe: Les leçons de l'expérience danoise,' *Rapport d'information*, No. 1437 (Paris: Assemblée Nationale, Délégation pour l'Union européenne, 1994), p. 22; text of report as appendix in Laursen, 'Parliamentary Bodies.'

