Since the early years of the European Community, a mix of cooperation and conflict has characterized the EU’s inter-institutional relations. It was often argued, for example, that the European Parliament (or Assembly) and the European Commission were allies in the project to ‘build Europe’. By the 1980s, however, things had changed. As both the European Commission under Jacques Delors’ leadership, and the European Parliament, its members having been directly elected since 1979, became more assertive, the relationship between the two institutions began to take on a rather different character.

Yet by the 2000s, further changes in the inter-institutional relationship had been identified. There appeared to be a greater willingness to cooperate on matter that had previously been deemed issues central to the autonomy of the individual institutions. Christiansen identifies a similar pattern of ‘coherent governance’ (Christiansen, 2001), arguing that this is a function of the growing interconnectedness of EU policy processes and the strengthening of a “supra-institutional” allegiance among EU officials.’ (Christiansen, 2001: 747). Alternatively it may be this change is more a reflection of a new era of maturity and confidence. Even so, this shift should not be overstated. There is some evidence that inter-organisational conflict over informal rules – for example over the White Paper on Governance, an example, which fits well with the focus of this paper - was still rife in the early 2000s (Bouwen, 2007).

Although there is a wealth of information available on inter-institutional relations, it is not easy to identify the factors that led to (or prevented) successful inter-institutional co-operation. At the level of decision-makers, it might seem that personalities and the specific circumstances of the case determine the effectiveness of co-operation. Structural factors might also be important, however.

Two recent attempts at inter-institutional co-operation have been witnessed in a field that might be called ‘governance policy’, that is, policy which is about the process of governing the EU institutions (in this brief) and the EU more generally. In the first case, which concerns lobbying regulation, a European Commission initiative after 2005 provoked a debate in the European Parliament and this
ultimately led, after much discussion and negotiation, to the approval of an Inter-Institutional Agreement and the setting up of a Joint Register (the Transparency Register) and Code of Conduct. In the second case, efforts by the European Commission to engage the European Parliament in discussion over a joint ethics system, comprising a joint (or independent) committee of both institutions which might adjudicate on ethics-related issues, failed to gain any ground with the European Parliament. Why was the inter-institutional co-operation successful in the first case, but not in the second?

The first point to make is that in both cases, the two institutions each felt the need to be developing policy on the two issues under consideration. Indeed, in both cases, new policy has been agreed since the late 2000s. It cannot be argued that in either case, the Commission and the Parliament do not have an interest in these policy questions. However, this does not mean that they had a ‘shared’ interest. In the case of lobbying regulation, there was a clear rationale behind having a common register, and some degree of common standards. That said, the different approaches of Commission and Parliament could be accommodated within the framework that was ultimately agreed. The Parliament continued to offer a ‘badge’ to those coming into the Parliament building, for example, whereas the Commission did not wish to go down this road. In a sense the common approach agreed was a lowest common denominator approach to lobbying regulation, worth pursuing, but flexible enough to allow for divergent practices, reflecting the different roles of the two institutions, and the different relationships they traditionally had with outside interests.

At a general level it can be said that European parliamentarians (legislators) have a structural reason for engaging reluctantly in inter-institutional regulation. This is particularly the case where the initiative comes from a body which they have a duty to scrutinise. Relations between the Parliament and Commission are not just a matter of finding the right balance between conflict and cooperation, but have to involve recognition of the formal relationship between executive and legislator. This will inevitably determine the limits of inter-institutional co-operation on issues which impinge on that aspect of the Parliament’s function. This is what happened in the ethics regime case, where co-operation was seen potentially to undermine the capacity of the Parliament to be independent in its judgement of the Commission.

Moreover, questions can also be raised over whether such an inter-institutional ethics regime makes sense in a comparative context. Even though the 2007 Report on Ethics discussed both high office holders and legislators, the content of the Report reflected the norm that as these categories of public servant are very different, they need to have discrete codes, rules and committees. Indeed, from this perspective, the logic of the Commission’s proposed inter-institutional committee (and regime) starts to look rather unconvincing. Barroso’s efforts to link such an initiative to the reform of the Code of Conduct might even be interpreted as an effort to delay having to revise the Code.

To a degree, both institutions have evolved in a context in which they were given substantial powers to act independently of the member states. Albeit in different ways, both the Parliament and the Commission continue to hold dear to their ability to set their own rules of procedure, within a wider framework agreed intergovernmentally. However, the European Parliament has been particularly hostile to any form of external control, and not just of an inter-institutional character, even where this is to be of an advisory nature, as the most recent initiative on an ethics committee has demonstrated. The argument frequently made is that legislators, directly elected by popular mandate, are accountable to their electorates, and not to any other outside body. The lines of accountability that conventionally exist within representative parliamentary democracies would therefore be undermined should alternative external forums be established which establish new forms of accountability. This can be seen in the Parliament’s decision not to set up an independent advisory body in 2011. As the regulation of ethics impinges directly on the conduct of MEPs, the Parliament’s opposition to a Commission-inspired ethics regime is understandable from this perspective. The successful case of the Transparency Register primarily involves the direct regulation not of the public servants themselves but rather of the lobbyists with which they interact. As such there was less resistance to controls on non-governmental actors and groups than there might be on public servants.
Partly for the reasons discussed above, the ethics regime initiative lacked an advocate within one of the two institutions expected to participate. It is even debatable whether there was much advocacy at all from the Commission on this issue, despite repeated references to their desire to seek agreement on it. This was not so in the lobbying regulation case, where initially Alexander Stubb took the lead as rapporteur in pushing for an EP Resolution. After his department, the work was continued by his replacement. At a later stage, the torchbearer became Diana Wallis. On the Commission’s side, Commissioner Sefcovic has been keen to encourage greater inter-institutional relations with both Parliament and Council (though the latter has been rather slow in responding to his overtures).

Finally, in the case of the ethics regime, the timing of the Commission’s initiative did not fit well with that of the Parliament. The 2011 scandal demanded an immediate parliamentary response, and action was taken extremely quickly. The Commission argued its case for a common ethics regime last in 2010 at a point when this issue was not on the Parliament’s agenda. One might speculate whether had the timing of the ‘cash-for-laws’ scandal hit at the point at which Barroso was calling for common action on ethics, a shared agenda might have been possible. One cannot assume this to be likely, however, given the other factors that shaped the success and failure of these two different initiatives.

To sum up, from this analysis of the two cases, a number of factors can be identified as important in determining the success or otherwise of inter-institutional co-operation (in matters of governance policy). These are: shared interests; the flexibility of the initiative proposed; the extent to which the initiative would undermine formal functions of one or other of the institutions; the sensitivity of the issue with reference to the independence of the institutions; the existence of actors willing to perform an advocacy role; and the timing of the initiative in light of the individual institutions’ issue attention cycle. Identifying factors such as this might make it easier for policy-makers to structure and manage inter-institutional relations in such a way as to make it more likely to result in a successful agreement; alternatively, it might make predicting unlikely co-operative ventures easier too.

REFERENCES