



# The European Affairs Committee of the Danish Parliament

THE DANISH  
PARLIAMENT'S  
SCRUTINY OF  
GOVERNMENT  
EU POLICY



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# THE EUROPEAN AFFAIRS COMMITTEE OF THE DANISH PARLIAMENT, THE FOLKETING, PLAYS A CENTRAL ROLE IN DANISH EU POLICY

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The European Affairs Committee scrutinizes the Danish Government's policy in EU matters. The Committee meets almost every Friday all year round to discuss a wide variety of matters on which agreement must be reached among the EU Member States.

These can range from rules on the transport of pigs on German autobahns and the EU's position on the political development in the EU's southern neighbours to cod quotas in the Baltic Sea and trafficking in human beings.

Due to the long-standing Danish tradition of having minority governments, the European Affairs Committee's most important task is to scrutinize the Danish Government's EU policy.

This is to make sure there is no majority in the Danish Parliament against the Government's position, before ministers depart for meetings in Brussels with their colleagues from the other EU Member States. Thus Danish Ministers must present the items on the Council agenda in the European Affairs Committee the Friday prior to the following week's Council meeting(s). If necessitated by political developments in the EU, a minister may also consult the Committee at very short notice.

Besides scrutinizing the Government, a growing part of the European Affairs Committee's work is to issue opinions to the EU's institutions and debate cases pending at the European Court of Justice.



The Danish Parliament is a unicameral Parliament with 179 Members.



## A BIT OF HISTORY

The Danish Parliament is a unicameral Parliament with 179 Members. The abolition of the bicameral system accompanied the latest revision of the Constitution in 1953.

For reasons explained below, the bulk of EU matters in the Danish Parliament are handled in the European Affairs Committee. This Committee is one of the Danish Parliament's current 26 Standing Committees. The majority of the other Committees, the Sectoral Committees, specialise in policy fields such as agriculture and fisheries, housing, employment etc.

Ever since the first discussions on Danish membership of the European Economic Community (the EEC), now the EU, politics have focused on safeguarding the power of the Danish Parliament to scrutinize Danish EU policy and Government participation in the meetings of the Council of Ministers (or Council, as it is commonly known).

As early as 1961, the Danish Parliament set up its Market Negotiation Committee in order to follow the Government's negotiations on Denmark's accession to the EEC. When Denmark joined the European Economic Community on 1 January 1973, the Committee changed its name to the Market Committee. Today, it is known as the European Affairs Committee.

### FROM MARKET COMMITTEE TO EUROPEAN AFFAIRS COMMITTEE

In 1994, the Market Committee changed its name to the European Affairs Committee because European cooperation, particularly with the Maastricht Treaty, had developed into more than just cooperating on the economy and market organisation.



## THE WORK OF THE EUROPEAN AFFAIRS COMMITTEE

### LEGISLATION CONSIDERED IN THE EUROPEAN AFFAIRS COMMITTEE

The Bills whereby Denmark adopted the Treaties of Maastricht, Amsterdam, Nice and Lisbon were considered in the European Affairs Committee.

The Committee also considered the Bill on the accession to the EU of 10 new countries in 2004 and the Bill on the accession of Romania and Bulgaria in 2006.

The work of the European Affairs Committee differs significantly from that of the other Standing Committees. Where the latter devote a lot of their time to the consideration of Bills (draft legislation) and draft resolutions, work in the European Affairs Committee only rarely comprises such matters.

The most important task of the European Affairs Committee is parliamentary scrutiny of the Danish Government's EU policy. This means that the Committee follows and examines the items on the agenda when ministers from the 27 EU Member States gather at Council meetings.

A minor but growing part of the Committee's agenda is devoted to parliamentary scrutiny of the Government's interests and interventions in cases before the European Court of Justice as well as scrutiny aimed directly at the EU's institutions, for instance reasoned opinions (see page 21).

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The crucial provisions about the Committee's powers were established in the Committee's first report from 29 March 1973.



## THE COMPETENCE OF THE EUROPEAN AFFAIRS COMMITTEE

The Danish Constitution contains no reference to the competence of the European Affairs Committee. The Danish Parliament's consideration of European Affairs is fundamentally based on the Danish Accession Act from 1972 and on reports issued by the European Affairs Committee since 1973. In addition, the Standing Orders of the Danish Parliament establish guidelines on the consideration of EU matters in the European Affairs Committee and the Sectoral Committees.

The European Affairs Committee's working procedures and competence are regulated on an ongoing basis by a series of reports embodying political agreements between the Committee and the Government.

The decision to establish the Committee's working procedures and competence in reports rather than through legislation was based on a desire to secure maximum flexibility, allowing the Committee's procedures to adapt continuously to changing conditions in the EU. There are today more than 20 such reports.

### THE COMMITTEE'S POWERS

The crucial provisions about the Committee's powers were established in the Committee's first report from 29 March 1973:

"The Government shall consult the Folketing's Market Committee on matters of market policy of considerable importance; this consultation shall respect both the influence of the Folketing and the freedom of the Government to negotiate.

Prior to negotiations in the Council of the European Communities about decisions of major significance, the Government shall present its proposed negotiating position orally to the Committee. Provided there is no majority in the Committee against this mandate, the Government shall negotiate on this basis."



# THE DANISH ACCESSION ACT AND COMMITTEE REPORTS

## MATTERS OF MAJOR SIGNIFICANCE

Ministers in the Danish Government present some 75 matters annually to the European Affairs Committee on which a mandate is sought.

One of the matters considered to be of significance in 2010 concerned the proposal for a new regulation on food and nutrition labelling in the EU. The Government's position was presented in the Committee by the Minister for Food, Agriculture and Fisheries on 26 November of that year.

Following a debate which centred on the voluntary use of the Guideline Daily Amounts label on food products, the mandate was granted with no parties opposing the position.

The Accession Act governing Denmark's accession to the European Communities stipulates that the Government shall "inform the Danish Parliament's European Affairs Committee of proposals for Council decisions which will apply directly in Denmark or whose implementation requires the participation of the Folketing."

This duty to inform has been clarified and extended considerably through the adoption of reports from the European Affairs Committee. The reports are political agreements between the Committee



and the Government. The reports contain, inter alia, the key provisions for negotiating mandates, often referred to as proposed mandates or simply mandates.

The essence of these provisions is that the Government presents matters to the European Affairs Committee orally, either for information or with a view to securing a mandate. The Government must inform the Committee about matters of *considerable importance*, while it presents its proposed negotiating position in the case of decisions of *major significance*. The Government decides which EU matters fall within each of the two categories.

The first passage imposes a dual obligation when the Government presents matters in the European Affairs Committee as both the influence of the Danish Parliament on Government policy and the freedom of the Government to negotiate through its Ministers and its civil servants must be taken into consideration.

As a consequence of the mandate system, most discussions on EU matters take place in the European Affairs Committee rather than in the Chamber of the Danish Parliament.



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## MEETINGS OF THE COMMITTEE

As a rule, the European Affairs Committee meets every Friday throughout the year, with the exception of August, when the EU institutions are closed for the summer holiday. The Committee thus follows the calendar of the European Union institutions. Extraordinary meetings may also be called. All in all, the Committee meets around 50 times a year.

As a consequence of a June 2006 report, meetings of the European Affairs Committee have, in principle, been open to the public since October 2006. From October 2007, it has also been possible to watch the open meetings on the Internet or on the Danish Parliament's TV channel.

In addition to the detailed minutes from the Committee meetings, records of mandates are also published. These show which parties have opposed a proposed Government negotiating position.

An agenda item may be considered behind closed doors, for instance, if considering it in public is thought likely to jeopardise the Danish negotiating position in relation to other EU Member States. Both the Government and individual members may ask for the Committee to sit in camera.

Most often, however, such items concern procedural matters or short debates on opinions delivered to the EU institutions.

## WHO ARE THE MEMBERS OF THE COMMITTEE?

Like the Sectoral Committees of the Danish Parliament, the European Affairs Committee is comprised of 29 members.

When distributing seats on the Committee, efforts are made to ensure that all political parties in the Danish Parliament are represented by a member. This is important when the Committee Chair determines if there is a majority against the Government's position in the European Affairs Committee. Thus the Committee members speak with the weight of the number of seats their party has in the plenary.



## HOW TO FOLLOW MEETINGS IN THE EUROPEAN AFFAIRS COMMITTEE

The European Affairs Committee's meetings are broadcast on the Danish Parliament's tv channel and can be watched on-demand via the Danish Parliament's or the EU Information Centre's websites at [www.ft.dk](http://www.ft.dk) or [www.euo.dk](http://www.euo.dk).

Finally, it is possible to follow the work of the Committee by reading the minutes from the meeting.





**DRAFT RESOLUTIONS CONSIDERED IN THE EUROPEAN AFFAIRS COMMITTEE**

Though most EU matters are dealt with in the European Affairs Committee alone, a few draft resolutions on EU matters are referred from the Chamber to the Committee each year. Generally there are two types of resolutions: Those tabled by the Government – for instance ratification of EU agreements with third countries – and those tabled by individual members.

In the 2010-2011 session 3 such resolutions were considered.



## SCRUTINY IN PRACTICE

As already mentioned, the presentation of Council meetings is a central part of the Committee's work and follow a particular procedure. Prior to a meeting in, e.g., the Environment Council, the Danish Minister for the Environment will appear before the Committee to present the agenda for discussion in Brussels the following week. The same applies to all other Danish Ministers before they attend Council meetings.

Ministers will present all matters on the agenda which the Government regards as being of considerable importance or of major significance.

If the matters are of considerable importance, they are submitted to the Committee for information. If the agenda contains items involving the adoption of proposals of major significance, the Minister will give an oral presentation of the mandate sought by the Danish Government in the matter, and indicate how far the Government will go to defend its position in the forthcoming negotiations.

After the Minister's presentation, Committee members may question the Minister and state their party's position on one or more of the agenda items. After each round of questions, the Chair gives the floor to the Minister to respond. At the end, the Committee Chair will sum up and draw their conclusion.

### THE EUROPEAN AFFAIRS COMMITTEE AND THE DANISH PARLIAMENT'S SECTORAL COMMITTEES

The Danish Parliament's Sectoral Committees have the option of early consideration of EU matters within their respective spheres of competence. The Committees have technical expertise in their individual areas and receive all relevant EU memoranda from the Government concerning these areas.

The Sectoral Committees themselves decide how to consider relevant EU matters. This can be done, for instance, by summoning a Minister to a consultation ahead of a Council meeting, by putting questions in Committee to the Government or by contacting the Danish Members of the European Parliament. The Sectoral Committees can also issue statements on individual Bills to support the European Affairs Committee in its subsequent consideration of the Government's position on a particular matter.

If the European Affairs Committee asks the Sectoral Committees to deliver an opinion to the European Affairs Committee in order to issue joint opinions to legislative proposals or Green and White Papers from the Commission, the Sectoral Committees must do so according to the Standing Orders of the Danish Parliament.



## THE NEGOTIATING MANDATE

Items of major significance require the Minister to secure a negotiating mandate from the European Affairs Committee before a binding decision is taken in the Council.

The Minister will present the proposed negotiating position orally, providing a detailed review of the matter and stating the consequences of a Council decision for Denmark. The Minister reviews the most important unresolved issues and clarifies the Government's position. In some cases, the Minister will inform the Committee of the negotiating situation in the Council, which could have a bearing on whether some EU Member States might muster a blocking minority. The Minister may also give a brief account of any criticism of the proposal, e.g. from interest groups, before finishing the oral presentation by summing up the proposed mandate.

At the end of the debate between the Minister and the Committee, the Committee Chair will conclude whether there is a majority for or against the mandate sought by the Government. Although there is no actual vote in the Committee, the Chair will still count how many members oppose the

Government's proposed mandate. In doing so, the Chair will take account of the number of seats in the Parliament represented by the respective parties of each Committee member.

The proposed mandate will only be rejected if Committee members representing parties with a total of 90 seats or more have stated their opposition to it.

While it is comparatively rare for the Committee to reject the Government's proposed mandate, this does not mean that the Committee has no influence on the Government's EU policy. On the one hand, the Government may amend or adapt its original proposal during Committee discussions, while on the other the Danish civil servants taking part in Council negotiations at an early stage (often before a proposal has been formally tabled by the European Commission) will take account of the fact that the Government must have the outcome approved by the European Affairs Committee at some stage. When, albeit rarely, the Committee does reject a proposed mandate, the minister must return to the Committee with a revised proposal at a later meeting.

At the end of the debate between the Minister and the Committee, the Committee Chair will conclude whether there is a majority for or against the mandate sought by the Government.



WHAT ABOUT DELEGATED AND IMPLEMENTING ACTS – THE NEW COMITOLOGY?

Delegated and implementing acts are acts for which the Council and the European Parliament have delegated implementing powers to the Commission.

These acts are also subject to scrutiny in the European Affairs Committee as matters regarding Commission implementing decisions must be presented to the Committee when the Government considers them important.

Consideration in the Committee follows the same guidelines as for matters adopted in Council. Due to tight deadlines, information concerning matters not related to a decision of major significance is generally submitted to the Committee in writing only.

EARLY PRESENTATION OF PROPOSED MANDATES

Previously, the Government would present its proposed negotiating position to the European Affairs Committee when the matter was on the Council agenda in order to achieve political consensus. However, developments in EU cooperation mean that an increasing number of matters are now being settled by civil servants in working groups and concluded without actual political negotiations in the Council. Many of these matters are settled early on in the process through an agreement at first reading between the European Parliament and the Council.

This has brought about a need to include the European Affairs Committee in the decision-making process at an earlier stage. Consequently, the

Government will ask the Committee for a mandate well in advance of the matter going on a Council meeting agenda.

In order to take account of these developments, a June 2006 report made clear that ministers must seek a mandate in the European Affairs Committee on proposals of major significance “... *before the Danish position is established (e.g. in connection with a first-reading agreement between the Council and the European Parliament)*”. Furthermore, it may be necessary to seek a new mandate in the European Affairs Committee if the proposal changes fundamentally during the negotiations. When an item is an early presentation, this is stated in the agenda for the Committee meeting.

A CASE OF EARLY PRESENTATION

In a meeting of the European Affairs Committee on 14 January 2011, the Finance Minister presented a request for a mandate on the Commission’s so-called Six-Pack reform proposals aimed at strengthening the Stability and Growth Pact and preventing the kind of budget deficits which led to the debt crisis in several euro zone Member States.

This was an instance of early presentation as the matter was not on the agenda of the following week’s Council meeting which the Finance Minister would be attending.

However, the memorandum from the Government to the Committee did contain information that the proposals of the Six-Pack were expected to be adopted at later ECOFIN Council meetings. But because the negotiations on the substance of integrating the Task Force recommendations into the Commission’s proposals took place in an ad hoc Council Working Group, it was important to have a mandate from the European Affairs Committee at an early stage.

WHAT HAPPENS AFTER A MINISTER HAS BEEN TO A COUNCIL MEETING?

When Ministers return from a Council meeting in Brussels, they must submit a written report on the meeting to the European Affairs Committee not later than five working days after the meeting, indicating what happened at the meeting in relation to matters of political interest, and the result of any votes.

OBLIGATION TO INFORM THE COMMITTEE ABOUT CASES BEFORE THE EUROPEAN COURT OF JUSTICE

The Government must inform the European Affairs Committee of possible legal proceedings by the Commission against Denmark. As a consequence of the growing number of far-reaching rulings by the European Court of Justice (ECJ), the Government must also inform the Committee about cases before the ECJ which may be relevant to Danish interests.

A report adopted in 2009 extends this duty of the Government to inform the European Affairs Committee to also include regular oral presentations by Ministers in the Committee on current ECJ cases which the Government considers important.

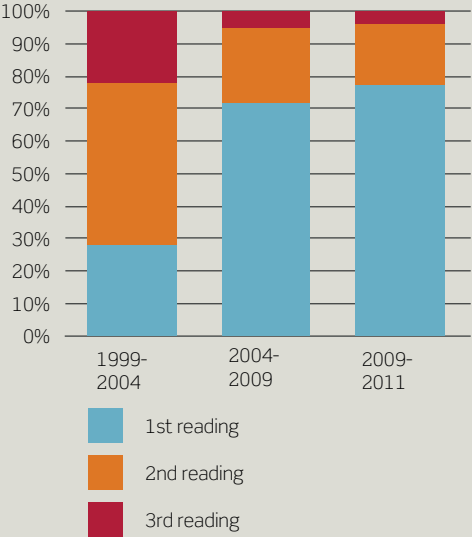
THE LAVAL AND METOCK RULINGS

Two rulings in particular led to lengthy public debates and consequently to the European Affairs Committee’s latest report dealing with the ECJ. These were the Laval ruling from 2007 and the Metock ruling from 2008.

The Laval case was viewed by many as a potential threat to the Scandinavian labour market model, where the rights and obligations (like minimum wage, right to strike etc.) of employers and employees are regulated by agreements between these parties rather than by law as is the case in most EU Member States.

The Metock case and other similar cases stemming from Directive 2004/38 on the right of citizens of the Union and their family to move and reside freely within the territory of the Member States challenged the national Danish immigration rules by granting EU citizens, who make use of the free movement, different rights from those enjoyed by citizens who have not made use of the EU’s free movement.

Percentage of codecision files adopted at 1st, 2nd and 3rd reading



Source: European Parliament



## THE EUROPEAN AFFAIRS COMMITTEE AND MEETINGS OF THE EUROPEAN COUNCIL

### THE DANISH PARLIAMENT’S INTERNATIONAL SECRETARIAT

Staff in the Danish Parliament’s International Secretariat is responsible for arranging the European Affairs Committee meetings and activities in general.

The secretariat’s staff will, for example, advise the Speaker of the House and MPs in general on the rules and procedures related to the work of the EU system and that of the European Affairs Committee. The Secretariat also assists and advises the Sectoral Committees on EU matters.

The Secretariat can be contacted on weekdays on telephone number +45 3337 3610 and by e-mail at [europaudvalget@ft.dk](mailto:europaudvalget@ft.dk)

The leaders of the EU Member States meet in the European Council at least twice during each six-month EU Presidency. These meetings are often referred to as European Summits. Before the summits, the Prime Minister will inform the European Affairs Committee about the subjects for discussion at the summit, setting out the Government position. As a rule, the Heads of State and Government simply lay down general guidelines in the European Council which are later followed up by individual Councils of Ministers in the form of proposed legislation.

In general, summits make no formal decisions. It is therefore rare for the Danish Government to seek mandates in the European Affairs Committee before these meetings. If the Government feels that it needs a mandate, e.g. in connection with discussions on treaty amendments, recent practice has

been that for instance the Minister for Foreign Affairs presents the proposed mandate at a Committee meeting before informing about the summit.

In this case, a proposed negotiating position will typically be presented ahead of a Council meeting (ex. General Affairs Council), at which the forthcoming summit will be prepared. But the Government may also seek a mandate without a Council meeting, as was the case when the Finance Minister sought a mandate for Denmark to join the Euro Plus Pact prior to the European Council meeting on 24 – 25 March 2011.

The week following a European Summit, the Government will generally debrief the European Affairs Committee in the form of an oral presentation on the summit and its outcome.

## THE ROLE OF THE COMMITTEE IN COORDINATING SUBSIDIARITY CHECKS IN THE DANISH PARLIAMENT

The Lisbon Treaty makes national Parliaments the guardians of the principle of subsidiarity. This means that national Parliaments in the EU Member States are responsible for monitoring that EU institutions do not adopt legislative acts in areas which are better left to Member States to regulate themselves.

In the Danish Parliament, the European Affairs Committee annually selects, on the basis of the Commission’s annual legislative programme, 5 to 10 legislative proposals which the Sectoral Committees then scrutinize jointly with the European Affairs Committee. This leaves one week for coordination with other national Parliaments and, if required, conciliation between the Sectoral Committee(s) concerned and the European Affairs Committee, before an opinion is issued.

### YELLOW AND ORANGE CARDS

Protocol No. 2 of the Lisbon Treaty stipulates that, if at least one third of national Parliaments issue a reasoned opinion on draft legislation, the relevant EU Institution must review the proposal (yellow card), while reasoned opinions from half of the national Parliaments (orange card) may lead to a withdrawal of the proposal.

Finally, a national Parliament may also through its government bring an action for non-compliance with the principle of subsidiarity before the European Court of Justice.



The European Affairs Committee receives more than 1,500 memoranda and other documents each year.

## THE COMMITTEE’S DECISION-MAKING BASIS

### COOPERATION WITH THE DANISH MEMBERS OF THE EUROPEAN PARLIAMENT

The Danish Members of the European Parliament may receive all the public Government memoranda and EU memoranda submitted to the European Affairs Committee, as well as the agendas from the European Affairs Committee.

Cooperation with the Danish MEP’s takes place both within the individual political parties and in regular monthly meetings between members of the European Affairs Committee and the Danish MEP’s. At these informal meetings, current European affairs of common interest are the subject of discussion. In addition, the MEP’s may also attend the open meetings and hearings in the European Affairs Committee.

The European Affairs Committee receives more than 1,500 memoranda and other documents each year.

Much of the Danish Parliament’s written information on EU matters is submitted by the Government in the form of annotated memoranda. The memoranda are drawn up by the relevant Ministry which forwards them to the sectoral committee at the same time as they are sent to the European Affairs Committee via the Ministry of Foreign Affairs, which is responsible for coordinating Denmark’s relations with the EU.

While the European Affairs Committee receives the vast majority of its documents from the Ministry of Foreign Affairs, written submissions are also received from interest groups etc.

In addition to the information received from the Government, the Danish Parliament’s EU Secretariat produces the so-called EU memoranda. These contain background material and analysis of Commission proposals, information on debates in the European Parliament, and analyses of European Court of Justice rulings and other important matters in relation to the EU.

### MEMORANDA FOR COMMITTEE MEETINGS

Eight days before the weekly meeting of the European Affairs Committee, the Government will submit to the Committee an annotated memorandum describing each of the items which the Minister(s) intend(s) to present at the meeting of the European Affairs Committee. The memoranda are designed to provide sufficient information for Committee members by reading the memoranda only and not the actual European Commission proposal, when preparing for a meeting. The memoranda are called summary memoranda because they summarise the current memoranda on each item on the agenda of meetings.

The European Affairs Committee must receive an explanatory memorandum on draft legislative proposals, green and white papers etc. four weeks after they have been forwarded to the Council. The time limit is three weeks, if it is one of the 5-10 proposals submitted for a subsidiarity check.

## INTERNATIONAL COOPERATION

Twice every six months, representatives from the European Affairs Committees in the EU Member States and applicant countries gather for a COSAC meeting.

COSAC is the cooperation body for European Affairs Committees. Hosted by the country holding the EU Presidency, the COSAC meetings include a delegation from the European Parliament. The meeting debates current European political issues, and participants exchange their experiences of work in their respective national European Affairs Committees.

The European Parliament and the country holding the Presidency also regularly invite representatives from national Parliaments to meetings and conferences in Brussels and in the capital of the country holding the Presidency. When possible, a delegation of Members of the Danish Parliament from the relevant Sectoral Committees and/or from the European Affairs Committee will also participate in these conferences.

The European Affairs Committee often receives visiting politicians and civil servants from other EU Member States and applicant countries. These may include Speakers of Parliament, members of European Affairs Committees, Ministers or Commissioners. The members of the European Affairs

Committee usually visit the capital of the country holding the EU Presidency, and they arrange study tours to other destinations of interest to the Committee.

In addition, members of the European Affairs Committee and members of the relevant Sectoral Committees participate in the WTO Ministerial Conferences which take place every other year. The participating members of the European Affairs Committee and Sectoral Committees form part of the Danish Government delegation. At the Ministerial Conferences, representatives from the European Affairs Committee and Sectoral Committees meet Members of Parliament from the other participating countries.





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THE DANISH  
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