The Lisbon Treaty represents a significant step in the evolution of the European Parliament (EP). It brings the EP closer to more familiar national models and potentially enhances both its democratic legitimacy and popular acceptance. The EP’s legislative power has risen appreciably and it is now an equal co-legislator with the Council over the vast majority of areas of EU internal policy. In addition it has already shown the willingness and ability to extend its new competences in external policy to the fullest extent of the Treaty provisions.

The Treaty also provides for more Parliamentary oversight, particularly in regard to the Commission. Early indications suggest that the EP will seek to maximise and even extend these powers where possible.

The budgetary procedure sees the EP become an equal partner with the Council, and with that it gains the final word on the whole budget's adoption. Questions, however, remain as to the value of these changes in real terms. A truer picture may emerge on the completion of the first new budgetary cycle.

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Context

The European Parliament (EP) has grown and developed with each Treaty reform. New powers and new responsibilities continue to bring it closer to recognisable parliamentary models around the world.

The Lisbon Treaty continues this trend and symbolically goes even further. Whilst the European Community Treaty referred to the EP as exercising the “powers conferred upon it”, the new text refers simply to it exercising legislative functions “jointly” with the Council.

It is widely suggested that this stronger legislative role, coupled with new budgetary powers and more oversight of the other institutions enhances the democratic legitimacy of both the EP and EU. The Committee on Constitutional Affairs has welcomed the fact that “democratic accountability and decision-making powers will be enhanced, allowing citizens to have greater control over the Union’s actions”.1

A 2009 Eurobarometer poll found the EP to be the most trusted of the EU institutions, but still by only 48% of citizens. Evidence suggests that although more formal powers might improve the democratic character of the EU, it does not necessarily translate into greater popular acceptance. This remains a major challenge for the EP in the exercise of its new powers.
Library Briefing The European Parliament’s role after Lisbon

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Legislative powers

The increased formal legislative powers are the most significant element of the new Treaty for the EP. There is also potential to extend its influence further. At the same time its capacity to deal with such a large increase in workload will be challenged.

More co-decision

The Lisbon Treaty provides for equal co-legislation between the EP and Council in over 40 new policy fields. Co-decision becomes the standard method of legislating, and is renamed the ordinary legislative procedure (OLP).

The EP therefore gains equal footing in a number of important areas including the whole of the former ‘third pillar’ area of freedom, security and justice as well as market organisation under the Common Agricultural Policy (CAP), Common Fisheries Policy, Common Commercial Policy and intellectual property rights.

There may also be possibilities to extend its role further. In particular, the possibility of using co-decision competence over one particular aspect of an issue as a means of gaining competence over the entire matter is not new. Increased co-decision, however, gives the EP more opportunity to use this linkage.

A first example of this has already taken place in regard to the European External Action Service (EEAS), on the substantive issues of which the Parliament need only be consulted. The EP has used its co-decision powers over both the Financial Regulation and the Staff Regulation as a means of establishing de facto co-decision over other aspects of the service’s organisation.

It has also been argued that successive EU enlargements have hindered the decision-making process within the Council by diluting individual Member States’ voting power. This has in turn makes compromises more likely to be achieved in the EP. With the Parliament’s increased legislative and budgetary power and a delay until at least 2014 in bringing in reformed qualified majority voting (QMV) in the Council, the EP may be able to play an even more influential role.

Greater control on comitology

The European Parliament has pressed for reform and improvements of comitology procedures for many years. It has focused particularly on two main issues. Firstly, the lack of control over the Commission’s exercise of delegated powers of execution; and secondly the EP’s right to supervise implementing measures based on acts adopted under co-decision (comitology committees included only MS representatives).

The Lisbon Treaty creates two new categories of non-legislative act. Delegated acts will be adopted by the Commission on the basis of powers delegated to it by the legislator or co-legislators. These powers will now also be subject to supervision and even revocation by either the EP or Council. Additionally, either may object to individual acts.

In contrast to delegated acts, where the Commission substitutes for the legislature, Implementing acts grant power to the Commission to substitute for MS in order to ensure uniform implementation of basic acts. Therefore it is the MS who are responsible for supervising the Commission. Nevertheless, through co-decision, the EP can still influence the process in the adoption of the rules to govern the mechanisms for MS supervision. A draft report by the Legal Affairs Committee on the Commission proposal is due to be adopted at the end of October 2010.

A heavier workload

Had the Lisbon Treaty come into effect in 1999, the Civil Liberties Committee alone would have had 170 legislative proposals under co-decision up to the end of 2007 with the Agriculture and Fisheries Committees dealing with a further 350. Concern has been
expressed over the EP’s ability to cope with this increased workload. The drop in legislative activity resulting from the delayed appointment of the Commission makes any early assessment difficult. However, the Parliament has already indicated that it will seek budgetary increases for this reason.

Some academics have suggested that it may need to rely more on external expertise whilst others argue that for expediency it must seek to adopt more first reading deals. However, both suggestions may reduce transparency in the legislative process and give further ammunition to those questioning the EP’s democratic legitimacy.

### Powers of oversight

The report on the EP’s new role and responsibilities in implementing the Lisbon Treaty acknowledged that a broadening of EU action ‘necessitates a new inter-institutional balance guaranteeing adequate democratic scrutiny by Parliament’. Whilst the EP has had oversight of the Commission for a number of years, the Council and European Council have previously proved out of reach.

### Commission

The powers to elect and to censure the European Commission have proved to be two of the most powerful weapons in the European Parliament’s armoury. The Lisbon Treaty reinforces its role, to a limited extent, in both respects.

The explicit statement that “the Commission (...) shall be responsible to the European Parliament” now precedes in Article 17(8) TEU its power to censure.

The procedure to appoint the Commission has been explicitly politicised. The European Council will now have to take into account the results of the EP elections when presenting its candidate for Commission President. It is argued that this, along with the election of the President by QMV, will allow the EP to bring a higher profile, party political angle to the procedure.

Prior to the election of the new Commission, and at the EP’s insistence, it was agreed to produce a new Framework Agreement for relations between the two institutions. The Agreement also highlights the importance of equal treatment of the EP and Council.

The new EP in action

It may be too early to judge the true effect of the Lisbon Treaty on the European Parliament. Co-decision in new areas is in its infancy, the new budgetary procedure has not yet been tested and a new framework agreement with the Commission has only just been adopted. But in the area of external policy, the EP has already asserted itself.

The new treaty provides significant advances on its previously minimal role. Measures to implement the common commercial policy pass to co-decision, and a large number of international agreements now require Parliament’s support under the new ‘consent’ procedure.

The potential of this new power was demonstrated within three months of the Treaty coming into force. In a resolution of 11 February 2010, the EP withheld its consent to the EU’s interim agreement with the United States on banking data transfers via the SWIFT system despite pleas from senior US officials. According to the rapporteur, the Council had “not been tough enough on data protection”.

Moreover, according to one analysis, the EP has treated these new powers “as a starting point rather than an end”. In May 2009, the EP indicated its intention to request the Council, which has absolute prerogative, not to open negotiations on international agreements until it had stated its position. The EP has, according to some, indicated a similar appetite for greater involvement within the negotiation processes themselves.
Council
The European Parliament has far fewer powers of oversight of the Council. Nevertheless, as demonstrated by the new Commission Framework Agreement, the Parliament is keen to assert its status as an equal legislator and to ensure reciprocity in the relationship between the two.6

Moreover, the position of the High Representative for Foreign Affairs as Vice-President of the Commission provides the Parliament with indirect influence. In theory the EP can both block their appointment and dismiss them through the censure procedure.

More positively it has also been suggested that changes following Lisbon may bring the two closer together. As co-legislators with joint responsibility for the annual budget each relies on the Commission for legislative initiatives and for information in international negotiations.7

European Council
The creation of a permanent President of the European Council by the Lisbon Treaty did not bring with it any extra power of scrutiny for the EP over the new institution. The President will continue to present a report to the EP after each European Council meeting as was the case under the previous treaties.

Nevertheless outside the treaty framework, the EP has sought to be kept more fully informed. In particular it has requested more regular meetings with President Van Rompuy as well as having announced its intention to amend its internal rules to allow questions to the European Council. So far, however, these initiatives have not been accepted.8

Budgetary role
Significant changes have been made to both the decision-making procedures and inter-institutional balance in regard to the EU’s finances. The effect of these changes on the European Parliament is mixed. In some important aspects its role appears to have been increased considerably. However, several commentators argue that in some cases existing practice has merely been constitutionalised, whilst others even point to areas where it may lose influence. There is general agreement, however, that a true picture can only begin to emerge once an entire budgetary cycle has been completed.

Annual budgetary procedure
With the removal of the distinction between compulsory and non-compulsory expenditure, the EP is now jointly responsible with the Council for all EU expenditure. A special legislative procedure, a simplified version of co-decision, leads to a joint decision and the adoption of the budget.

Under the simplified procedure, set out in Article 314 TFEU, each institution has one reading after which, if no agreement has been reached, a conciliation committee (CC) is convened to negotiate an agreement. The CC is composed of representatives of each of the 27 MS and an equal number of MEPs.

In principle, the procedure also grants the EP the final word to accept a joint text adopted in conciliation even if rejected by the Council. In practice, however, it is unlikely that the Council would reject a text that had been accepted by a qualified majority of MS in conciliation.

How the new procedure will work in practice, and therefore the EP’s exact role, is still to be established. In a resolution of May 2009 on the financial aspects of the new Treaty, the EP indicated the importance of the institutions involved agreeing an optimum transition to the new arrangements. Transitional measures for the 2011 budget, concerning inter-institutional dialogue and a provisional calendar were agreed in a Joint Declaration of the Commission, EP and Council in December 2009. The agreement is intended to be temporary, replaced by a permanent one based on the experiences gained.

In February 2010, as a follow-up to the 2009 resolution, the EP’s Budget Committee
produced a working document on the implications of the Lisbon Treaty for the annual budgetary procedure.

Although the new procedure appears to provide greater power for the EP and with it greater democratic legitimacy, some academics take a different view. Previously, the EP had the final word over non-compulsory expenditure which had risen to around 60% of the total budget. That has been lost.

**Multiannual financial framework (MFF)**

Under Lisbon, the MFF, in existence since 1988, becomes a legally binding act. It must be adopted unanimously by Council after obtaining the majority consent of the EP. As such it is even argued that the Parliament enjoys the *de facto* right of initiative, previously belonging exclusively to the Commission. The provision in Article 312(1) that the MFF will last "at least five years" opens the possibility, supported by the EP, for the period to match more closely the mandates of both Parliament and Commission. Although it may prove difficult to achieve in practice, such a development would conceivably give greater democratic legitimacy to the EP and allow it to bring wider political pressure to the negotiations.

The newly constitutionalised framework may, however, not work entirely in the EP’s favour. In particular, the ceiling placed on expenditure may constrain flexibility in the annual budget. Whilst not directly affecting the power of the Parliament, it is argued that this increases the power of those preferring greater rigidity in budgetary policy. In its May 2009 resolution, the EP emphasised the importance of establishing new, and strengthening existing, flexibility mechanisms to balance the now legally binding nature of the MFF.

### Main references

- **European Parliament Library Key Issue: Implications for the European Parliament of the Treaty of Lisbon.**
- **The Lisbon Treaty – A second look at the institutional innovations.** Centre for European Policy Studies.
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Endnotes

2 For a full list of the policy areas under co-decision see Annex 3 of the EP report on the Lisbon Treaty.
3 Delegated and Implementing Acts are governed by Articles 290 and 291 TFEU respectively.
5 The Council contests the EP/Commission agreement on various grounds.
6 In discussions on the implementation of the Lisbon Treaty the Conference of Chairs of Political Groups instructed the Secretary-General to ensure equal treatment and reciprocity with the Council concerning administrative arrangements.
7 Although no framework agreement exists between the Parliament and Council, a number of inter-institutional agreements have been adopted on issues such as better law-making, guidelines for drafting legislation and budgetary discipline. These could form the basis of a future text.
8 The EP report on its role and responsibilities after Lisbon called on the European Council to keep Parliament fully informed about the preparations for European Council meetings and to give a report within two days where possible (if necessary to special sitting).
9 Article 312(2) provides for a ‘passerelle’ clause for QMV in the Council. If this were adopted, it is argued that the EP would benefit by having a smaller group of MS to negotiate with than under unanimity.