Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

European Implementation Assessment update

STUDY

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Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

Study

On 11 April 2018, the Committee on Constitutional Affairs of the European Parliament requested authorisation to produce an implementation report on ‘the Treaty provisions on Parliament’s power of political control over the Commission’ (rapporteur: Mercedes Bresso, S&D, Italy). The Committee adopted its final report on 28 January 2019, and on 12 February 2019 Parliament adopted its resolution on the implementation of the Treaty provisions on Parliament’s power of political control over the Commission.

Implementation reports are routinely accompanied by European implementation assessments drawn up by the Ex-Post Evaluation Unit of the Directorate for Impact Assessment and European Added Value, within the European Parliament’s Directorate-General for Parliamentary Research Services. This study is an updated version of the original implementation assessment, which was produced to contribute to the Parliament’s discussion of this topic, improve understanding, and feed into the rapporteur’s implementation report.

Abstract

The Treaties provide the European Parliament with various opportunities to exercise its powers of political oversight of the European Commission and its actions. The European Parliament’s application of these prerogatives increases the democratic legitimacy of the European Union, and the transparency and accountability of the European executive.

This updated implementation assessment examines the status quo of the European Parliament’s powers of scrutiny over the European Commission. The cases examined pertain mainly to electoral and institutional issues, motions of censure, parliamentary questions, inquiry committees and special parliamentary committees and reporting, consultation and provision of information. It also touches upon scrutiny over budgetary issues, of delegated acts, and in the context of the legislative procedure, legal proceedings and the EU’s external relations.
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- DG PRES: Plenary Organisation and Follow-up Unit, Members’ Activities Unit, Institutional Relations Unit, Legislative Planning and Coordination Unit
- DG IPOL: Secretariat of the Committee on Budgetary Control, Policy Department for Budgetary Affairs, Secretariat of the Committee on Constitutional Affairs, Committee Coordination and Legislative Programming Unit, Legislative Affairs Unit
- DG EXPO: Policy Department for External Relations, Secretariat of the Committee on Foreign Affairs
- DG EPRS: Budgetary Policies Unit
- Legal Service: Legislative and Judicial Coordination Unit.

The services of the European Parliament were invited to provide substantive comments on the sections of the study for which they provided the information. Subsequently, the whole study was peer-reviewed internally within the European Added Value Unit.

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Executive summary

Like the majority of national parliaments, the European Parliament also carries out a scrutiny and oversight function in relation to the executive – the European Commission. The European Parliament's powers with regard to the European Commission are varied and wide-ranging. This document is an update of the original European implementation assessment (EIA) prepared in 2018 to accompany the drafting by the European Parliament’s Committee on Constitutional Affairs (AFCO) of an implementation report on 'the Treaty provisions on Parliament's power of political control over the Commission'. It covers the last two full legislative terms of the European Parliament (2009 to 2014 and 2014 to 2019).

The objectives of the EIA were threefold:

- first, to investigate and report on the status of the Parliament's powers in scrutinising the European Commission, which are based on the Treaty provisions;
- second, to assess the implementation of these Treaty provisions in specific areas in which Parliament can carry out its scrutiny prerogatives; and
- third, to draw conclusions and suggest a direction for reflection on the exercise of the existing prerogatives.

The study briefly describes the background to the development of the European Parliament's prerogatives with regard to the scrutiny of and political control over the executive. The methodology used to carry out the analysis included recourse to desk research and supporting data provided by the internal services of the European Parliament, as well as publicly available information. However, given that the assessment fed into the preparation of the AFCO implementation report on 'the Treaty provisions on Parliament’s power of political control over the Commission', analysis was limited to Parliament's powers in relation to the Commission alone. In view of the time constraints involved, the cut-off date for the research is December 2009, date of the entry into force of the Treaty of Lisbon, and the Treaty provisions researched have been clustered around certain specific topics.

The study analyses the European Parliament's powers of scrutiny over the European Commission, based on the text of the Treaties, concentrating on the following ten areas:

1. electoral and institutional issues,
2. motion of censure and withdrawal of confidence in individual Commissioners,
3. parliamentary questions,
4. inquiry committees and special parliamentary committees,
5. reporting, consultation and provision of information,
6. budgetary issues,
7. legislative procedure,
8. delegated acts,
9. legal proceedings,
10. external relations.

The analysis concludes that Parliament is well aware of the Treaty provisions allowing it to scrutinise and control the Commission. However, Parliament's actual application of these prerogatives in individual areas varies as to their number, frequency and impact on the Commission and its work. The study notes that the Commission tries to fulfil its obligations towards the Parliament in areas where the Treaties oblige it to do so.

The study also notes that the impact of Parliament's scrutiny prerogatives could be improved with regard to some of the fields, such as committees of inquiry, special parliamentary committees, and
legislative procedures linked to Article 225 of the Treaty on the Functioning of the European Union (TFEU).

In conclusion, the study argues that only a limited number of the scrutiny competences currently afforded to Parliament by the Treaties can have a lasting impact on the executive, since Parliament’s powers to influence the Commission are rather limited, both in terms of when they can be used and the nature of their consequences. Beyond the text of the Treaties, provisions contained in the framework of interinstitutional agreements can only strengthen Parliament if its counterparts agree to abide by them.

Finally, when assessing the Parliament’s prerogatives of control over the European Commission, it is important to bear in mind the main reason behind their original inclusion in the text of the Treaties, i.e. to provide for the democratic scrutiny of the executive. Similarly, the European Parliament’s role as representative of the EU citizens, and as the only directly elected EU institution, must be taken as the starting point when it comes to its scrutiny of the European Commission.
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List of abbreviations

CCC  Conference of Committee Chairs
CFSP  Common foreign and security policy
Coordleg  Committee Coordination and Legislative Programming Unit
COP  Conference of Presidents
CSDP  Common security and defence policy
CWP  European Commission annual work programme
DG EPRS  European Parliament Directorate-General for Parliamentary Research Services
DG EXPO  European Parliament Directorate-General for External Policies of the Union
DG IPOL  European Parliament Directorate-General for Internal Policies of the Union
DG PRES  European Parliament Directorate-General for the Presidency
EIA  European implementation assessment
FA 2010  Framework agreement on relations between the European Parliament and the European Commission, 2010
IIA BLM  Interinstitutional agreement on better law-making, 2016
IIA 2013  Interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management, 2013
LEGI unit  European Parliament Legislative Affairs Unit
MEP  Member of the European Parliament
MFF  Multiannual financial framework
OEIL  Legislative Observatory
TEU  Treaty on European Union
TFEU  Treaty on the Functioning of the European Union
TEC  Treaty establishing the European Community

List of parliamentary committees

AFET  European Parliament Committee on Foreign Affairs
AFCO  European Parliament Committee on Constitutional Affairs
AGRI  European Parliament Committee on Agriculture and Rural Development
BUDG  European Parliament Committee on Budgets
CULT  European Parliament Committee on Culture and Education
CONT European Parliament Committee on Budgetary Control
DEVE European Parliament Committee on Development
DROIT European Parliament Sub-Committee on Human Rights
ECON European Parliament on Economic and Monetary Affairs
EMPL European Parliament Committee on Employment and Social Affairs
ENVI European Parliament Committee on Environment, Public Health and Food Safety
FEMM European Parliament Committee on Women's Rights and Gender Equality
INTA European Parliament Committee on International Trade
IMCO European Parliament Committee on Internal Market and Consumer Protection
ITRE European Parliament Committee on Industry, Research and Energy
JURI European Parliament Committee on Legal Affairs
LIBE European Parliament Committee on Civil Liberties, Justice and Home Affairs
PECH European Parliament Committee on Fisheries
PETI European Parliament Committee on Petitions
REGI European Parliament Committee on Regional Development
SEDE European Parliament Sub-Committee on Security and Defence
TRAN European Parliament Committee on Transport and Tourism

List of political groups

ALDE Group of the Alliance of Liberals and Democrats for Europe
ECR European Conservatives and Reformists Group
EFDD Europe of Freedom and Direct Democracy Group
ENF Europe of Nations and Freedom Group
EPP Group of the European People's Party
GUE/NGL Confederal Group of the European United Left – Nordic Green Left
Greens/EFA Group of the Greens/European Free Alliance
S&D Group of the Progressive Alliance of Socialists and Democrats in the European Parliament
1. Introduction and methodology

1.1. General introduction

The European Parliament (Parliament), like the majority of national parliaments, exercises a scrutiny and oversight function over the executive. Parliament can exercise its scrutiny and oversight prerogatives with regard to several EU institutions, including the European Commission.

General provisions applicable to the Parliament’s scrutiny prerogatives are delimited in the Treaties (TEU and TFEU). The Treaties empower Parliament to exercise its powers in various policy areas, covering such aspects and procedures as a legislative process or an approval of the EU budget. However, the practical implementation of these Treaty-based Parliamentary powers is often specified in other documents, such as the Framework Agreement on relations between the European Parliament and the European Commission, the Interinstitutional Agreement on Better Law-making, or in the Parliament’s Rules of Procedure.

The Parliament’s Treaty-based prerogatives to scrutinise the Commission are relatively broad. At their centre lie issues linked with the investiture of the European Commission, the right to deal with a motion of censure or with the right to set up committees of inquiry to investigate policy topics. These core prerogative functions also include Parliament’s ability to pose questions to the Commission, or Parliament’s scrutiny over common foreign and security policy, which can also be considered a part of the Parliament’s core political scrutiny. Beyond these core scrutiny powers, Parliament carries out its political scrutiny responsibilities with regard to the EU budget or oversees the EU legislative process. Finally, the Parliament has the right to constitute legal proceedings before the Court of Justice of the European Union in cases described by the Treaties.

This update of a European implementation assessment seeks to provide a picture of the state of play of the Parliament’s political scrutiny of the Commission, concentrating on the last two full legislative terms: 2009 to 2014 and 2014 to 2019. It seeks to analyse the implementation of the Treaty provisions, demonstrate their main strengths and weaknesses, and where possible point to opportunities for action.

1.2. Methodology

This section provides a short description of the methodology and data collection used in this European implementation assessment (EIA).

This EIA is the result of desk research and analysis of the Treaty provisions, as well as provisions contained in other acts and documents implementing the Treaties. The analysis was supported by verification of data and opinions from the relevant services of the European Parliament’s secretariat.

This study does not provide a historical overview of the development of the Parliament’s scrutiny prerogatives, as it only analyses these Parliamentary prerogatives since the entry into force of the Lisbon Treaty (December 2009).¹ This document should not therefore be perceived as a historical study, but rather as an assessment of the current status quo. However, some events that took place before 2009 are mentioned as anecdotal evidence, or to illustrate the previous, or the only, practice.

Despite the fact that the Parliament can potentially scrutinise the actions of several EU institutions and bodies, this EIA concentrates on the Parliament oversight of the European Commission. This limitation is due to the requirement to prepare the original European implementation assessment

as input for the preparation of an implementation report by the Parliament’s AFCO committee on ‘the Treaty provisions on Parliament’s power of political control over the Commission’.

The Treaty provisions are naturally rather broad and general, and may be implemented in different documents, and as the subject of this research is very broad, certain limitations to this study were necessary. The analysis therefore concentrates on the provisions included in the following agreements:

1. Treaty on European Union, and

In addition, the Treaties’ legal provisions relative to Parliament’s prerogatives, including very often their procedural aspects, are further specified in several other documents that do not have the legal character or power of the Treaties. This analysis concentrates on the following documents:

1. Interinstitutional agreement on better law-making,
2. Framework agreement on relations between the European Parliament and the European Commission, and

Provisions included in other documents were assessed and taken into account only where necessary to provide more consistent and/or comprehensive data (such as the Interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters, and on sound financial management).

Apart from the Treaty provisions, data obtained from several European Parliament services3 was analysed, as well as the academic literature on the subject, and existing research carried out by the European Parliamentary Research Service (DG EPRS). Furthermore, publicly available information, accessible via the websites of the European Commission, the European Parliament and the Council was also analysed. This EIA thus draws upon a combination of publicly available data and in-house data provided by the services of the Parliament.

In accordance with Article 14(1) TEU, Parliament exercises legislative functions, budgetary functions, control and consultation functions and elective functions. As these functions are interrelated, it is often impossible to separate them completely. For the purpose of this study, however, several Treaty provisions have been clustered around a specific topic, to cover a similar subject and cover the general functions carried out by Parliament.

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2 The 2018 version of this study assessed and took into account the June 2018 version of Parliament’s Rules of Procedure (ROP). The study’s 2019 update looks at the March 2019 version. It also notes differences between the two versions of the ROP in relation to the matters in question.

3 These services include:
   - DG PRES: Plenary Organisation and Follow-up Unit, Members’ Activities Unit, Institutional Relations Unit, Legislative Planning and Coordination Unit
   - DG IPOL: Secretariat of the Committee on Budgetary Control, Policy Department for Budgetary Affairs, Secretariat of the Committee on Constitutional Affairs, Committee Coordination and Legislative Programming Unit, Legislative Affairs Unit
   - DG EXPO: Policy Department for External Relations, Secretariat of the Committee on Foreign Affairs
   - DG EPRS: Budgetary Policies Unit
   - Legal Service: Legislative and Judicial Coordination Unit.


In this regard the study concentrates on the ten following areas where Parliament might potentially exercise its scrutiny powers.

1. electoral and institutional issues,
2. a motion of censure,
3. parliamentary questions,
4. committees of inquiry and special parliamentary committees,
5. reporting, consultation and providing information,
6. scrutiny in budgetary issues,
7. scrutiny in the legislative procedure,
8. scrutiny of delegated acts,
9. legal proceedings, and
10. scrutiny of external relations.

As these topics are highly complex, more specific in-depth research might be required in future.

The application of the Treaty provisions in each of these specific areas is assessed against two main broad criteria, intensity and impact. While intensity assesses how frequently Parliament used its prerogatives between 2009 and 2019, impact assesses the Commission's potential reaction to the application of the Parliament's prerogatives. Both criteria range from low to high.

The original study was completed in August 2018 and covers developments that took place and relevant information publicly available at the time. This update was completed in May 2019 and, in the same way as the original study, is based on information publicly available at the time.

1.3. Parliamentary procedures leading to this research and after its delivery

On 11 April 2018, the Committee on Constitutional Affairs (AFCO) requested authorisation to draw up an implementation report on 'the Treaty provisions on Parliament's power of political control over the Commission' (rapporteur: Mercedes Bresso, S&D, Italy). This proposal was approved by the Conference of Committee Chairs at its meeting on 17 April 2018.

Implementation reports are routinely accompanied by European implementation assessments (EIA). The 2018 version of this EIA was submitted to the rapporteur and presented at the AFCO public hearing: 'Parliament's powers of political control over the Commission after Lisbon: lessons learnt and the way forward' on 10 October 2018.

The rapporteur presented her draft report in the AFCO committee on 30 October 2018. Subsequently, the other members of the AFCO committee had the possibility to comment on the draft report until 28 November 2018. In January 2019, the AFCO committee received an opinion from the Committee on Budgets (BUDG) with several suggestions for the final version of the report. The AFCO committee adopted its final report on 28 January 2019 and it was subsequently placed on the Parliament's plenary agenda. On 12 February 2019, Parliament adopted its resolution on the

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4 PE629.657
5 By this time, the members had submitted 86 amendments to this draft report (PE630.761).
6 See the CONT opinion of 8 January 2019 (PE628.699).
7 See the AFCO report on the implementation of the Treaty provisions on Parliament's power of political control over the Commission (2018/2113(INI)) - (P8_TA(2019)0078).
implementation of the Treaty provisions on Parliament's power of political control over the Commission.\(^8\)

In this resolution, Parliament noted that scrutiny over the EU bodies is one of its main roles, while the Commission's accountability to Parliament is 'an underpinning principle of the functioning of the EU and of internal democratic control' (point 1). Parliament noted the need to make full use of its scrutiny competences and the existing instruments. Once again Parliament strongly supported the application of the Spitzenkandidaten process and underlined a political link between Parliament and the Commission (points 3 and 4). Parliament also pointed out that its power of oversight was complemented by the competences of national parliaments regarding national governments (points 10 and 11) and considered difficulties linked therewith. Furthermore, it underlined its powers to control the Commission through the annual budgetary and discharge procedures (points 13 to 19) and highlighted the strong political signal that could be sent with a decision not to grant a discharge to the Commission.

Parliament also adopted several recommendations, for its own bodies, and for the Commission. These recommendations included, for instance, calls for Parliament to maximise the effectiveness of the scrutiny instruments available to it (point 22). It also considered it necessary to reform its own working methods in order to strengthen the exercise of its functions of political control over the Commission (point 24). Parliament called on the Commission to take more serious account of the legislative initiatives launched by Parliament under Article 225 TFEU and called on the next Commission president to commit to this objective (point 25). In this regard Parliament also considered that its lack of a formal right of legislative initiative should be given serious consideration in the context of a future Treaty revision change (point 27). The exchange of best practices in parliamentary scrutiny among national parliaments was also encouraged (point 28). Parliament reiterated the need to establish an annual European week (point 29). National and regional parliaments were encouraged to increase their capacity to scrutinise their executives when taking decisions concerning the implementation of EU legislation (point 32).

Furthermore, Parliament expressed the wish to reinforce its capacity to scrutinise the preparation and implementation of delegated and implementing acts (point 30). According to Parliament, any future Treaty changes should improve the instruments for holding individual commissioners accountable to Parliament throughout their term of office (point 33). Parliament called on the Council and the Commission to establish a political dialogue on Parliament's proposal for a regulation on the right of inquiry, so that Parliament can be entrusted with effective powers to carry out parliamentary inquiries (point 34). Parliament highlighted the usefulness of parliamentary questions and considered it necessary to undertake an in-depth assessment of the quality of the answers provided by the Commission to Members' questions (point 35). Parliament called on the Conference of Presidents to put question time back on the plenary agenda as it considered it an important element of parliamentary scrutiny (point 36). And lastly, it called on the Commission to review its administrative procedures for the appointment of its secretary-general, directors-general and directors, underlining the need for transparency and measures to ensure the best candidates are selected (point 37).

The Commission has not yet submitted its follow-up to this resolution (as of 15 May 2019).

\(^8\) P8_TA(2019)0078.
2. Assessing Parliament's powers of scrutiny

In the case of the European Parliament's control and scrutiny of the executive, the general right to 'exercise functions of political control and consultation as laid down in the Treaties' is included in Article 14 TEU.

Parliament, as the only directly elected EU institution, is mandated to carry out democratic scrutiny of the European executive, especially the European Commission, on behalf of EU citizens. In exercising this scrutiny, Parliament should be able to uphold and protect the application of EU principles of democracy and democratic values, such as transparency or accountability at European level.

Parliament's political scrutiny of the Commission can be characterised as the sum of Parliament's prerogatives and powers vested to it by the Treaties for the purpose of assessing the work the Commission carries out in its role as the EU's politically independent body responsible for upholding the Treaties, submitting proposals for new EU legislation, and managing EU policies.

Parliament's scrutiny is based on the relevant Treaty provisions, which can be characterised as either passive provisions (e.g. where the Commission's action towards the Parliament is envisaged), or active provisions (e.g. where the Parliament's action towards the Commission is envisaged). Depending on the text adopted in the Treaties, these types of provisions can be either obligatory (cases where the action is required) or optional (cases where the action is allowed). Both types of provisions are assessed in this study.

Political control of the Commission as exercised by Parliament can be viewed from both a broad and a narrow perspective. The narrower perspective usually includes Parliament's action with regard to electoral and institutional issues, motion of censure, Members' questions and committees of inquiry. The broader perspective can also include Parliament's actions with regard to budget, implementing acts, legal proceedings, or legislative procedure. This EIA takes the broader perspective and analyses the state of play in ten specific areas, namely electoral and institutional issues; motion of censure and withdrawal of confidence in an individual Member of the Commission; Parliament and Members' questions; inquiry committee provisions and special parliamentary committees; reporting, consultation and providing information from the European Commission; budgetary control; legislative procedures; delegated acts; legal proceedings; and external relations.

2.1. Electoral and institutional issues

One way the Parliament seeks to influence the Commission, which could potentially constitute scrutiny, is the Parliament's prerogatives linked to electoral and institutional issues, especially: (1) the Parliament's right to elect the President of the European Commission; (2) its right to a vote of consent with regard to the other members of the Commission (as a body) and to consent to (3) the High Representative of the Union for Foreign Affairs and Security Policy.9

2.1.1. Rules

2.1.1.1. President of the Commission

The establishment of the European Commission (the President and the Commissioners) is linked to the elections to the European Parliament. The candidate for the President of the Commission is put forward by the European Council, which is obliged to take into account the results of the elections to the European Parliament. The decision in the European Council is taken by a qualified majority.

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9 With regard to specific Parliamentary scrutiny powers regarding the High Commissioner, see Section 2.10.
Pursuant to Article 14(1) TEU, Parliament elects the President of the Commission. The candidate for the President of the Commission, proposed by the European Council, needs to be supported by a majority of the Parliament's component members. If this majority is not reached, the European Council must propose a new candidate, who needs to receive the same majority in the Parliament (Article 17(7) TEU). This procedure can be technically repeated until the required majority is reached.

Implementation of the Parliament's right to elect the President of the Commission is discussed in Rule 117 of the ROP. This rule obliges candidates for the position of President of the Commission, to make a statement upon the request of the Parliament's President, and present their political guidelines to Parliament in plenary, followed by a debate. The vote is taken by secret ballot. If the candidate does not win the support of Parliament's vote, the Parliament then invites the European Council to propose a new candidate within a one month period.

2.1.1.2. European Commission

Article 17(7) TEU also requires that the other members of the Commission, as well as the High Representative of the Union for Foreign Affairs and Security Policy are subject, as a body, to the Parliament's vote of consent.

Pursuant to Rule 118, the Commission President-elect should inform Parliament of the allocation of responsibilities (portfolios) within the proposed College of Commissioners. The Commissioners-designate are requested to appear before the appropriate Parliamentary committee at a single public hearing, during which they are asked to make a statement and to answer the Committee's questions.

Annex VI of the ROP (Approval of the Commission and monitoring of commitments made during the hearings) includes specific procedural issues concerning this process. The President-elect is invited to present the College of Commissioners and their programme during Parliament's plenary sitting. After winding up the debate, Parliament either gives its consent or rejects the Commission by a majority of the votes cast by roll call. The ROP also requires that in the case of 'a substantial portfolio change or a change in the composition of the Commission during the Commission's term of office, the Commissioners affected ... are invited to participate in a hearing' (Article 9, Annex VI). Parliament can also exercise its scrutiny powers if there is 'a change in the Commissioner's portfolio or in the financial interests of a Commissioner during his or her term of office' (Rule 118(10)).

Commissioners-designate are evaluated by Parliament based on 'their general competence, European commitment and personal independence. 'Knowledge of their prospective portfolio and their communication skills' are also assessed (Article 1, Annex VI).

Article 6 of the ROP's Annex VI highlights the power of parliamentary committees to review the commitments made and priorities referred to by Commissioners-designate during the hearings throughout their mandate.

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13 For more in this regard, see the following sub-chapter on motion of censure and withdrawal of confidence in an individual member of the Commission.
2.1.2. Application of rules

The Commission’s five-year term of office and the person who will ultimately become the President of the Commission are influenced by Parliament’s decisions.

2.1.2.1. The Spitzenkandidaten process

The Spitzenkandidaten process was established by the European political parties before the 2014 European elections, when several of them put forward their lead candidates (Spitzenkandidaten) for the post of the future President of the Commission. Five European political parties nominated their lead candidate: the European People's Party (EPP) put forward Jean-Claude Juncker, the Party of European Socialists (PSE) proposed Martin Schulz, the Alliance of Liberals and Democrats for Europe (ALDE), Guy Verhofstadt, the Greens nominated Ska Keller and José Bové jointly, and the European Left put forward Alexis Tsipras.

For the 2019 European elections, another set of Spitzenkandidaten was chosen by the European political parties. The European People's Party (EPP) put forward Manfred Weber; the Party of European Socialists (PSE) proposed Frans Timmermans; the Alliance of Conservatives and Reformists (ACRE) nominated Jan Zahradil; the Greens nominated Ska Keller and Bas Eickhout jointly, and the European Left put forward Nico Cué and Violeta Tomič. Furthermore, the European Free Alliance (EFA) nominated Oriol Junqueras. The Alliance of Liberals and Democrats for Europe (ALDE) announced that, instead of nominating one lead candidate, it had designated a ‘team of liberal leaders for the campaign’. This team includes the following seven leaders: Nicola Beer (FDP, Germany), Emma Bonino (Più Europa, Italy), Violeta Bulc (SMC, Slovenia), Katalin Cseh (Momentum, Hungary), Luis Garicano (Ciudadanos, Spain), Guy Verhostadt (Open Vld, Belgium) and Margrethe Vestager (Radicale Venstre, Denmark). The European Democratic Party (EMD) and the European Christian Political Movement (ECPM) did not present a transnational Spitzenkandidat before campaigning started. Matteo Salvini has shown interest in becoming Spitzenkandidat for the Movement for a Europe of Nations and Freedom (ENF), but his candidacy has not been officially declared.

Electing one of the Spitzenkandidaten as President of the Commission creates a direct link between the Commission and Parliament. To a certain extent this procedure is reminiscent of parliamentary elections in parliamentary democracies, where the leader of the winning political party can become prime minister. This procedure provides European citizens with a certain influence, through their democratic vote, in who is elected President of the Commission. This process is intended to foster European citizens’ political awareness, and may also reinforce the political legitimacy of Parliament and the Commission alike.

As the rules included in the Treaties are rather general and make no mention of any Spitzenkandidat or ‘leading candidate’ (or anything else in this sense), this process can only be considered to be a constitutional tradition ‘in statu nascendi’, where European citizens can have some say in who will become the next President of the Commission. According to the Parliament’s press release of 7 February 2018, this process was ‘primarily an agreement between EU leaders in the European Council, the European Parliament and European political parties on how to interpret the wording in the Treaties’.

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15 2019 Spitzenkandidaten, Europe Elects website.

16 Naturally, this only is a very general and simplistic description of this particular procedure.

17 Spitzenkandidaten' process cannot be overturned, say MEPs, press release, European Parliament, 7 February 2018.
According to the text of the Treaties, the European Council is not bound by the results of the Speitzennkandidaten process, even though it has to take the results of the elections to the European Parliament into account. Conversely, the vagueness of the rules de facto strengthens the Parliament's position, as Parliament can potentially reject all the candidates submitted by the European Council until its Spitzenkandidat is proposed. Then the position of President of the Commission could be 'handed' to the political group that wins the most seats during the European Parliament elections.

As the President of the Commission considerably influences the development of the EU's policies, Parliament's oversight of the choice of President considerably strengthens its position and might ultimately speed up the legislative process. However, once the President of the Commission is elected, Parliament as a representative body loses real power over his or her work.\(^{18}\)

In its decision of 7 February 2018 on the revision of the Framework Agreement on relations between the European Parliament and the European Commission,\(^{19}\) Parliament had already announced that it intended to follow this procedure again in the 2019 elections. In this regard Parliament approved amendments to the Framework Agreement of 2010 included in annex to the decision.\(^{20}\) The decision also agreed that serving EU Commissioners may run as Spitzenkandidaten in the upcoming 2019 European elections.

Furthermore, Parliament also underlined its decision to use this process in its resolution of 19 April 2018 on Parliament's estimates of revenue and expenditure for the financial year 2019.\(^{21}\)

As the Spitzenkandidaten process has been used only once (in the 2014 European elections), it is too early to evaluate its impact on the procedure for the election of the President of the Commission. Nonetheless, Parliament itself, in its decision of February 2018, already noted that 'in 2014 the Spitzenkandidaten process proved to be a success' (point 9). It should also be noted that the present President of the Commission (Jean-Claude Juncker) was indeed the EPP group Spitzenkandidat.\(^{22}\) Juncker received 40 more votes in the Parliament's plenary than José Manuel Barroso in 2009.

Furthermore, in his State of the Union address on 17 September 2017, the current President of the Commission also argued that 'if you want to strengthen European democracy, then you cannot reverse the small democratic progress seen with the creation of lead candidates – Spitzenkandidaten. I would like the experience to be repeated.' On the other hand, the President of the European Council (Donald Tusk) warned that 'there is no automaticity in this process' during a press conference following an informal meeting on 23 February 2018.\(^{23}\) He argued that 'the Treaty is very clear that it is the autonomous competence of the European Council to nominate the candidate, while taking into account the European elections, and having held appropriate consultations'.\(^{24}\)

\(^{18}\) Of course, Parliament can still vote on a motion of censure of the Commission College. See Section 2.2.


\(^{20}\) The decision was adopted by a roll-call vote with 457 votes for, 200 against and 20 abstained.


\(^{22}\) After the 2014 election the European Council did not immediately agreed with this 'Spitzenkandidaten' process. Although in the end it agreed with the J-C. Juncker its decision was not unanimous. See Conclusions of 30 August 2014.

\(^{23}\) Informal meeting of the 27 heads of state or government, press release, European Council, 23 February 2018.

\(^{24}\) For more on the Spitzenkandidaten process see L. Tilindyte, Election of the President of the European Commission: Understanding the Spitzenkandidaten process, EPRS, European Parliament, 2019.
During the special European Council meeting of 30 June to 2 July 2019, the European Council proposed to the European Parliament candidates who were not among the approved *Spitzenkandidaten*. The European Council proposed Ursula von der Leyen (Germany) for European Commission President. It remains to be seen, at the time of writing, how the European Parliament will react to the European Council’s proposal.\(^{25}\)

The following table shows the results of the election of the Commission President in 2009 and 2014, including the votes cast and the term in office.

Table 1 – Election of the President of the Commission since 2009

<table>
<thead>
<tr>
<th>Procedure reference and date</th>
<th>Vote</th>
<th>President of the Commission</th>
<th>Term in office</th>
</tr>
</thead>
</table>
| 15 July 2014 - 2014/2058(IN)  | In favour – 422  
Against – 250  
Abstained – 47 | Jean-Claude Juncker | 1 November 2014 – current  
(31 October 2019) |
| 16 September 2009 - 2009/2053(IN) | In favour – 382  
Against – 219  
Abstained – 117 | José Manuel Barroso | 22 November 2004 – 31 October 2014 |

Data source: Legislative Observatory (OEIL), European Parliament.

2.1.2.2. Approval of the College of the Commission – investiture

Before the Commissioners-designate can take office, Parliament exercises its scrutiny power by holding hearings with the proposed candidates in order to ascertain whether their skills and their qualifications match the posts proposed to them. Parliament needs to approve the proposed members of the Commission as a body. Since 1995,\(^{26}\) the Commissioners-designate have been required to appear before a Parliament public hearing involving one or several parliamentary committees, and after responding to a written questionnaire. The Commissioners-designate are presented by the incoming President of the Commission and Members evaluate their suitability before the plenary vote on the proposed Commission College.

The exact schedule of the hearings, i.e. when which Commissioner-designate should appear before which parliamentary committee, is approved by Parliament’s Conference of Presidents (COP). If a Commissioner-designate fails their hearing, they may be recalled for an additional hearing.

Before the hearings, declarations of financial interests prepared by Commissioners-designate are discussed by Parliament’s Committee on Legal Affairs (JURI). The JURI committee needs to confirm that no conflict of interest exists. Only then can the hearing before a committee responsible for a subject matter proceed. A single public hearing is organised for all the Commissioners-designate. These are organised by the COP on the recommendation of the Conference of Committee Chairs (CCC). The hearings are scheduled for a duration of three hours, while a live audiovisual transmission of the hearings is made available free of charge to the public and media *(Article 3, Annex VI, ROP)*.

Following each hearing, each of the committees meet *in camera* to prepare their evaluation of the candidate’s expertise and performance. The evaluation of the outcome of hearings is carried out by the CCC at an extraordinary meeting and is subsequently is sent to the COP. The COP finally declares

\(^{25}\) For more about the special European Council meeting of 30 June to 2 July 2019, see Drachenberg R., *Outcome of the special European Council meeting of 30 June-2 July 2019*, EPRS, European Parliament, July 2019.

\(^{26}\) The first Commission subject to Parliament ‘hearings’ was the 1995 Santer Commission.
the hearings closed and finalises the evaluation. The Parliament then casts its votes about the Commission as whole in plenary session.

Occasionally, the hearings can lead to the withdrawal of a Commissioner-designate’s candidacy, or to a change in their portfolio. In 2014, following a Parliamentary hearing and subsequent negative vote in the Environment (ENVI) and Industry (ITRE) committees concerning Alenka Bratušek (proposed as a candidate for the position of Commissioner for Energy Union and the Commission’s Vice-President), Slovenia withdrew her nomination. In 2009, after the hearing of Rumiana Jeleva (proposed as a candidate for the position of Commissioner for International Cooperation), Bulgaria withdrew her nomination.

Between 2010 and 2019 there were a number of additional hearings of Commissioners-designate, including four to replace Commissioners who gave up their posts following election in May 2014 as Members of the European Parliament, and in one case following Croatian accession to the EU in July 2013.

On 4 June 2013, Parliament held a hearing of Commissioner-designate Neven Mimica, following which Parliament approved Mimica’s nomination as Commissioner for Consumer Policy on 12 June 2013.

In July 2014, Parliament held hearings with (1) Jyrki Katainen, nominated to replace Olli Rehn for the Economic and Monetary Affairs and the Euro portfolio; (2) Ferdinando Nelli Feroci for the Industry and Entrepreneurship portfolio to replace Antonio Tajani; (3) Martine Reicherts to replace Viviane Reding for the Justice, Fundamental Rights and Citizenship portfolio; and (4) Jacek Dominik to replace Janusz Lewandowski for Financial Programming and Budget. The mandate of these Commissioners expired on 31 October 2014. Furthermore, on 12 September 2016, Parliament held a hearing with Commissioner-designate Julian King, nominated to take on the Security Union portfolio. Finally, on 20 June 2017, Parliament held a hearing with Commissioner-designate Mariya Gabriel, nominated to take over responsibility for the Digital Economy and Society portfolio.

As with the Spitzenkandidaten procedure, the hearings of Commissioners-designate are not expressly stipulated in the Treaties. Nonetheless, they increase the Commission’s accountability to Parliament and they are an important prerequisite for Parliament to be able to give an objective decision on the candidate for Commissioner.

With regard to the obligation on parliamentary committees to review the commitments made and priorities referred to by Commissioners-designate during the hearings throughout their subsequent mandate, the committees usually hold regular ‘structured dialogue’ meetings with the respective

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27 Hearing of Alenka Bratušek, Energy Union, Vice-President (withdrawn), European Parliament, 6 October 2014.
29 European Parliament decision of 12 June 2013 approving the appointment of Neven Mimica as a Member of the Commission (2013/0806(NLE)) was approved with 565 votes in favour, 64 against and 64 abstentions.
30 European Parliament decision of 16 July 2014 approving the appointment of Jyrki Katainen, Jacek Dominik, Ferdinando Nelli Feroci and Martine Reicherts as Members of the Commission was approved with 421 votes in favour, 170 against and 32 abstentions.
31 European Parliament decision of 15 September 2016 approving the appointment of Julian King as a Member of the Commission (2016/0812(NLE)) was approved with 394 votes in favour, 161 against and 83 abstentions.
32 European Parliament decision of 4 July 2017 approving the appointment of Mariya Gabriel as a Member of the Commission (2017/0805(NLE)) was approved with 517 votes in favour, 77 against and 89 abstentions.
Commissioner. The practice is to have these meetings at least twice a year. During the meetings, Members ask the Commissioner questions on progress in the fulfilment of their commitments regarding the priorities of each particular committee.

Table 2 – Election/approval of the Commission since 2009

<table>
<thead>
<tr>
<th>Procedure reference and date</th>
<th>Vote</th>
<th>Hearings of the Commission</th>
<th>Commission term in office</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Against – 209</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abstained – 67</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Against – 137</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abstained – 72</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Data source: Legislative Observatory (OEIL), European Parliament.

2.1.3. Summary

Whether in the election of the President of the Commission or in giving consent for the proposed Commission College, the European Parliament can and does exercise its scrutiny prerogatives. Naturally, this particular power of scrutiny is ex-ante in character, as Parliament assesses the abilities and knowledge of the Commissioners-designate before they actually carry out their work. In this context, it is necessary to pay attention to the possibility for and obligation on parliamentary committees to monitor commitments made during hearings of Commissioners-designate throughout their mandate. The result of such monitoring might potentially lead to a withdrawal of the Parliament's confidence in an individual Commissioner.

Despite the fact that Parliament can considerably influence the College of the Commission by electing its President and approving the Commissioners, this power, although substantive, is nevertheless fairly limited. Since 2009, Parliament has had only two opportunities to actually use this particular prerogative in full. Furthermore, one can see some limitations to Parliament's possible field of action with regard to the replacement of certain candidates, since according to the wording of the Treaties, Parliament can only reject or accept the Commission as whole.

Nonetheless, approval of the Commissioners and election of its President deepens the political link between Parliament and the Commission and can be considered a step towards greater democratisation of the EU.

However, the existing rules included in the Treaties are rather general, opening doors to varied interpretations. Therefore, although the procedure for hearings of Commissioners-designate can be considered as important and generally positive progress, the Spitzenkandidaten procedure raises questions. There may be a need to improve and clarify the rules and the procedure itself. However,

34 According to Article 6 of the Annex VI ROP this structured dialogue of the committees and the Commissioners takes place annually.
35 See Section 2.2.
36 If we take the cut-off date of this study, 1 December 2009 (entry into force of the Lisbon Treaty), into account, then Parliament has actually used the 'new' legal provisions only once, since Barroso was elected President of the Commission in September 2009.
37 See for example European Parliament decision of 28 April 2016 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2014, Section I – European Parliament, point 32.
such rules would require wider approval, based on a political discussion, since the relatively vague rules included in the TFEU and a unilateral use of the Spitzenkandidaten procedure by Parliament could potentially lead to a clash between the European Council and Parliament, which would neither benefit the EU and its institutions, nor the EU citizens.

2.2. Motion of censure and withdrawal of confidence in an individual Member of the Commission

Governments and their construction in parliamentary democracies do not only reflect the results of general elections to parliaments, but they are also politically linked to parliamentary approval, i.e. they are responsible to parliaments. The power of parliaments to assess the work of governments and express their opinion about it belongs among those parliamentary prerogatives that can ultimately lead to the fall of a government. If parliaments are discontent with the functioning or actions of governments or individual ministers, they can resort to withdrawing their confidence in ministers or voting on a motion of no confidence in the whole government. A vote of no confidence often leads to the fall of a government and potentially to subsequent parliamentary elections. However, this depends on the constitutional rules of each country, as for example, some countries distinguish ‘a constructive vote of no confidence’ leading to a change of the head of government without the entire government falling and subsequent parliamentary elections being required.

Similarly, the European Parliament has the power to express its discontent with the work of the Commission and to take a vote of no confidence – a motion of censure. Potentially, this power can be considered to be the most important means of Parliament’s political control of the Commission as it may lead to the fall of the Commission. However, Parliament’s power to withdraw its confidence in an individual Commissioner is a slightly different case.

2.2.1. Rules

While the Treaties provide rules with regard to motion of censure, they are silent regarding the withdrawal of confidence in an individual Commissioner.

2.2.1.1 Motion of censure

General provisions of the Parliament’s right to vote on a motion of censure of the Commission, called also a vote of no confidence, are included in Article 17(8) TEU and in Article 234 TFEU. Implementation of this right is presently discussed in Rule 119 of the ROP.

Provisions in both Treaties underline the Commission’s responsibility towards the European Parliament. A successful vote on a motion of censure against the Commission leads to a resignation of the Commission as a body, including the High Representative of the Union for Foreign and Security Policy with regard to his/her duties carried out in the Commission. To a certain extent, this mirrors the power of national parliaments over national governments.

The Treaty provisions note that Parliament cannot vote on such a motion ‘until at least three days after the motion has been tabled’ (Article 234 TFEU). The ROP (Rule 119) provides clearer information concerning the procedural issues. The threshold required for submitting the motion of

38 Depending on the method of government creation in different countries.
39 For example, Spain or Hungary. This case was also applied in 2018 in Slovakia.
The motion of censure has to be submitted to the Commission and its reasons have to be stated. A motion of censure has to be announced to Members of the Parliament by the President of Parliament immediately upon receipt. Between receipt of a motion of censure and the debate regarding the motion, the ROP prescribes a period of 24 hours. The vote taken on the motion is a roll call vote, which can be taken at the earliest 48 hours after the beginning of the debate. The debate and the vote have to take place during the part-session following the submission of the motion. In order for a vote on a motion of censure to be successful, it has to be carried by a two-thirds majority of the votes cast, representing a majority of the component Members of the European Parliament. This majority is rather high and occasionally raises questions as to its practical usefulness or applicability.\textsuperscript{44}

Figure 1 illustrates the sequence of the motion of censure procedure.

\begin{figure}[h]
\centering
\begin{tikzpicture}[node distance=2cm]
\node (a) {Proposal for a motion of censure (by 1/10 (or 1/5) of all Members)};
\node (b) [below of=a] {Announcement of a motion of censure to the President};
\node (c) [below of=b] {Immediate announcement by the President to Members of receipt of a motion of censure};
\node (d) [below of=c] {Debate on a motion of censure};
\node (e) [below of=d] {Vote on a motion of censure (roll call)};
\node (f) [below of=e] {Adoption of a motion of censure};
\node (g) [below of=f] {2/3 majority of the votes cast representing a majority of the component Members};
\node (h) [below of=e] {at the latest during the part-session following the submission of the motion};\end{tikzpicture}
\caption{Motion of censure – sequence}
\end{figure}

\begin{itemize}
\item \textsuperscript{42} In the event of Brexit, this number will decrease to 70.
\item \textsuperscript{43} In the event of Brexit, this number will decrease to 141.
\item \textsuperscript{44} For example, Marković argues that this threshold makes it 'practically impossible for the Parliament to remove [the Commission]'. G. Marković, ‘European Parliament’s Control of the European Commission - procedural aspects’, EU and Comparative Law Issues and Challenges, series - Issue 1, 2017, p. 484.
\end{itemize}
2.2.1.2. Withdrawal of confidence in an individual member of the Commission

The Commission is responsible to Parliament as a body, as the Treaties only recognise its collective responsibility towards Parliament. This might be one of the reasons why the Treaties are silent regarding a withdrawal of confidence in an individual Member of the Commission by Parliament. Nonetheless, the TFEU recognises the responsibilities of individual Commissioners, who can be requested to resign by the President of the Commission (Article 17(6) TFEU).

Rule 118(10) of the ROP provides Parliament with the possibility to request that the President of the Commission withdraw his/her confidence in an individual Commissioner if a conflict of interest is identified during the Commissioner’s term of office and if the President of the Commission has failed to implement the Parliament’s recommendations for resolving this conflict of interests.

In this context, point 5 of the Framework Agreement on relations between the European Parliament and the European Commission, 2010 (FA 2010) empowers Parliament to make such a demand of the President of the Commission. The President of the Commission is then obliged to ‘seriously consider whether to request that Member [of the Commission] to resign’. The same FA 2010 provision obliges the President of the Commission either to (1) require the resignation of that Commission member, or (2) explain his/hers refusal to do so before Parliament in the following part-session. Where appropriate, Parliament can also demand that the President of the Commission take action with a view to depriving the Commissioner in question of their right to a pension, or other benefits in lieu of pension, in accordance with Article 245(2) TFEU.

In general, this means that Parliament has no powers per se to force the resignation of an individual Commissioner. The Treaties do not provide Parliament with this prerogative. Parliament can only demand, by passing a resolution in plenary, that the President of the Commission do so, and account for his/her decision in plenary. Whether Parliament would be willing to go further with a motion of censure if the President of the Commission disregarded the Parliament’s request and provisions of the FA 2010 remains an open question.

Neither the ROP nor the Framework Agreement require a special majority to request that the President of the Commission withdraw confidence in an individual Commissioner. 46

2.2.2. Application of rules

The Treaty provisions set out the Commission’s collective responsibility to Parliament which can, if the requirements are complied with, withdraw its trust in the Commission. Although the Treaties are silent on withdrawal of confidence in an individual member of the Commission, the Framework Agreement includes provisions touching on this subject.

2.2.2.1. Motion of censure

To date, Parliament has tried (unsuccessfully) several times to use the Treaty provisions and their predecessors (Article 201 TEC) relating to a motion of censure. The following table provides an overview of cases in which the Members attempted to use the provisions related to the motion of censure procedure and remove a Commission College. The main reasons for the vote, results and the number of Members tabling the motions are also included.

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46 In this regard, it should also be noted that, according to Article 2(3) of the Commission Decision of 31 January 2018 on a Code of Conduct for the Members of the European Commission (C/2018/0700), the ‘Members [of the Commission] have the responsibility to maintain political contacts in view of the accountability of the Commission to the European Parliament and the European electorate and in view of the role of European political parties in the democratic life of the Union.’
Table 3 – European Parliament motions of censure 1992 to 2019

<table>
<thead>
<tr>
<th>Procedure file</th>
<th>Date of vote</th>
<th>Votes</th>
<th>Result</th>
<th>MEPs tabling motion</th>
<th>Reason for motion of censure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016/1594(MOC)</td>
<td>12 May 2016</td>
<td>Not applicable</td>
<td>Motion withdrawn</td>
<td>83</td>
<td>The Commission failed to adopt delegated act on scientific criteria for determining endocrine-disrupting properties</td>
</tr>
<tr>
<td>2005/2101(INSP)</td>
<td>8 June 2005</td>
<td>For – 35 Against – 598 Abstentions – 35</td>
<td>Procedure rejected</td>
<td>77</td>
<td>President of the Commission received a gift linked to a regional aid grant.</td>
</tr>
<tr>
<td>B3-1676/92</td>
<td>17 December 1992</td>
<td>For – 96 Against – 246 Abstentions – 15</td>
<td>Procedure rejected</td>
<td>75</td>
<td>Denouncing the Commission’s role in the GATT negotiations</td>
</tr>
</tbody>
</table>

Data source: Legislative Observatory (OEIL), European Parliament and the Committee Coordination and Legislative Programming Unit (Coordleg), European Parliament.

One case where Parliament’s motion of censure, albeit indirectly, led to the fall of the Commission occurred in 1999. Parliament refused to agree discharge for the Commission in respect of the implementation of the general budget of the European Communities for the 1996 financial year.

48 The Legislative Observatory (OEIL) does not provide any further information about this file.
49 This date refers to the date when the motion was tabled, as in this case there was no vote as the motion was later withdrawn.
50 The Legislative Observatory (OEIL) gives the date of 14 January 1997.
Although, as can be seen in table 3, Parliament did not reach the requested majority in the plenary, two months after the vote, the Commission collectively resigned.51

2.2.2.2. Withdrawal of confidence of an individual member of the Commission

The provisions included in the ROP and FA 2010 on withdrawal of confidence in an individual member of the Commission have never been applied.52 It is therefore impossible to evaluate their effects.

2.2.3. Summary

Similar to provisions linked with the Parliament’s power of investiture of the Commission, the Parliament’s power to support a motion of censure has also been used only sporadically. This power has been used twice since 2009, and seven times since 1992. However, as indicated in Table 3, none of the motions for censure have reached the majority required by the Treaty and directly resulted in the fall of the Commission.53 Nonetheless, a motion of censure is undoubtedly the strongest instrument in the Parliament’s toolkit vis-à-vis the Commission.

The most striking challenge of this tool is the two-thirds majority of Members that seems very difficult to reach across Parliament. On one hand, the requirement for this majority limits the Parliament’s power to effectively control the Commission, while on the other, a very high majority contributes to the stability of the Commission and prevents the misuse of this possibility by a minority in Parliament. Nevertheless, should Parliament feel there were satisfactory grounds to require a motion to be carried, it would doubtless reach the required majority. In addition, as can be concluded from the fall of the Santer Commission in 1999, even the threat that Parliament will use its power can bring about the resignation of the Commission.

The withdrawal of confidence of an individual member of the Commission has never been used. The Treaties do not expressly confer this competence on Parliament, although based on FA 2010, Parliament can demand the President of the Commission withdraw confidence at Parliament’s request. Therefore, any such request depends to a large extent on the state of relations between Parliament and the President of the Commission, who is the sole person to decide whether a Parliament request will lead to the removal of an individual Commissioner.

51 In this context see First Report on Allegations regarding Fraud, Mismanagement and Nepotism in the European Commission, Committee of Independent Experts, 15 March 1999.

52 However, in a recent case, an individual Commissioner departed from the Commission: the Maltese Commissioner for Health and Consumer Policy, John Dalli. This resignation followed an investigation by the European Anti-Fraud Office (OLAF). Dalli offered his resignation for reasons of impropriety following a meeting with President Barroso in October 2012, and subsequently contested the procedure in the Court of Justice of the EU. However, the General Court held that ‘the power to request a Member of the Commission to resign, which is a discretion conferred on the President of the Commission by the EU Treaty, cannot be considered to be illegitimate pressure affecting the validity or the voluntary nature of the resignation of the person concerned (point 157, Case T-562/12 Dalli v European Commission)’. The judgment was later upheld on appeal (Case C-391/15 Dalli v European Commission).

It seems, that at the time, Parliament’s political groups were more supportive of Commissioner Dalli than the Commission, and linked the forced departure to politically motivated delays regarding the pending update of the EU Tobacco Directive (MEPs look for smoking gun after Dalli resignation, Euractiv, 24 October 2012). Ultimately, this case resembles the opposite of the circumstances envisaged in the TFEU and FA 2010, as Parliament put the resignation in question, rather than requesting resignation.

53 Although it can argued that the fall of the Santer Commission in 1999 was the consequence of such a motion.
2.3. Parliament's and Members' questions

The prerogative of parliaments to scrutinise the executive is also carried out through questions addressed to the executive by parliaments and their members. Such questions can have political consequences, as they can trigger further investigation through various ad hoc committees of inquiry, or potentially even the withdrawal of confidence in an individual member of government. As such, parliamentary questions should not be underestimated.

The European Parliament and its Members can also make use of this scrutiny tool.

2.3.1. Rules

The traditional parliamentary right to question the executive (the Commission) in oversight of its actions is established by Article 230 TFEU. The TFEU requires the Commission to reply, either orally or in writing, to questions put to it by Parliament or its Members. The TFEU is rather general in this regard and only provides a legal basis for the Members’ questions. The specific rules applicable to this right and its implementation are currently included in the ROP (Rules 128-131a) and in FA 2010. Specific criteria regarding the admissibility of Member's questions and interpellations are set out in Annex II of the ROP.

The ROP and also the TFEU distinguish between questions for oral answer with debate (Rule 128) and questions for written answer (Rule 130) asked by Members. The ROP furthermore specify major interpellations for written answer (Rule 130b). They also include the concept of question time (Rule 129). The latest version of the ROP from March 2019 does not include the instrument of minor interpellations for written answer (Rule 130a). This was abolished in January 2019 as ‘it was used only very rarely’.

**Questions for oral answer with debate** to the Commission may be put forward by a committee, a political group or Members. These questions need to be submitted in writing to the President, who subsequently refers them to the Conference of Presidents. It is the COP who decides whether the questions should be put on the draft agenda. These questions have to be referred to the Commission at least one week before the sitting on the agenda. Pursuant to Rule 149a point 1, a question for oral answer can also be added when the agenda of the plenary is adopted at the opening of the part-session.

**Questions for written answer** to the Commission may be put forward by any Member in accordance with Annex II of the ROP. Members have sole responsibility for their content. Written questions have also to be submitted to the President, who decides on their admissibility in a reasoned decision. Members can submit a maximum 20 questions over a rolling period of three

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59 The ROP’s provisions relating to Members’ questions to the European Central Bank, the Single Supervisory Mechanism and the Single Resolution Mechanism are not discussed here.
60 The March 2019 ROP does not include the former Rule 130a, see in this case the versions of this rule from July 2018: Rule 130a, Rules of Procedure of the European Parliament, July 2018.
63 Annex II ROP sets criteria for questions and interpellations for written answer under Rules 130, 130a, 130b, 131 and 131a.
months. The ROP here distinguishes between priority and non-priority questions. Each Member can table one priority question per month. If the Commission cannot answer the question within six weeks (or three weeks if it is a priority question), the Member may request this question is placed on the agenda of the next meeting of the committee responsible.

In major interpellations for written answer with debate the Commission can be asked a question by a committee, a political group or at least 5% of Parliament’s component Members. Minor interpellations ask the Commission to provide Parliament with information on specifically designated issues. These questions have to comply with the requirements of Annex II and have to be submitted to the President, who decides on their admissibility. Major interpellations, meanwhile, ask the Commission to give information regarding a probable timetable for providing an answer. After the answer is received, major interpellations are placed on the draft agenda and must be debated if required. This is also applicable if the Commission refuses to answer.

All questions and answers are published on the Parliament’s website.

Annex II of the ROP specifies that written questions and interpellations have to: (1) clearly specify the addressee to whom they are to be transmitted through the usual interinstitutional channels; (2) fall exclusively within the limits of the competences of the addressee, as laid down in the relevant Treaties or in legal acts of the Union, or within its sphere of activity; (3) be of general interest; (4) be concise and contain an understandable interrogation; (5) not exceed 200 words; (6) not contain offensive language; (7) not relate to strictly personal matters; and (8) not contain more than three sub-questions. In this regard, Parliament’s Secretariat should provide authors with advice on how to comply with these criteria in an individual case (Annex II, point 3).

Written questions concerning related matters may be merged into a single question by Parliament’s Secretariat, to be answered together (Annex II, point 6).

Furthermore, should identical or similar questions have been put forward and answered by the Commission during the preceding six months, or should questions relate to follow-up on a resolution that has already been provided by the Commission, Parliament’s Secretariat transmits a copy of the previous question and answer, or the Commission’s follow-up, to the author. Nevertheless, the President of the Parliament can decide that, in the light of significant new developments, the question should still be asked (Annex II, point 4).

The provisions included in the FA 2010 also set out some additional rules regarding parliamentary questions. For example, point 16 requires that Parliament avoid asking questions in respect of which the Commission has already informed Parliament of its position through a written follow-up communication.

The ROP (Rule 129) also allow for question time with the Commission. This may be held at each part-session and can last up to 90 minutes. Question time can be held on one or more specific horizontal themes. The COP sets specific horizontal themes and decides on a question time at least one month in advance of the part-session, and invites the Commissioners responsible for the related portfolio(s). The number of Commissioners who can be invited for the session is limited to a maximum of three. In accordance with guidelines established by the Conference of Presidents, a ‘special question hour’ may be held with the President of the Commission. Question time is not specifically allocated, however Members holding different political views should be given the opportunity to put a question forward. Members have one minute to pose a question (or 30 seconds

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64 Parliamentary questions, European Parliament website.
65 It seems that such guidelines have never been adopted.
to pose a supplementary question), while the Commissioners have two minutes to provide an answer or a supplementary reply. The President decides on the admissibility of the questions.

In this regard, there is a slight discrepancy between the ROP and the FA 2010. While Rule 129 of the ROP require that question time should be 90 minutes long, the FA 2010 mentions a ‘question hour’ (point 46). Also according to the FA, the question hour with the President of the Commission should take place in two parts: (i) spontaneous; and (ii) devoted to a specific policy theme.

2.3.2. Application of rules

The existing rules allow Members to ask the Commission various questions for reply both in writing or orally. The latest revision of the ROP, which entered into force in March 2019, also provides for the organisation of question time.

2.3.2.1. Questions for written answer

The following tables 4 and 5 give an overview of questions for written answers that were addressed by the Members to the Commission during the last two parliamentary terms, and the answer rate. The statistics provided in this sub-chapter also include questions to the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy.

Table 4 – Questions for written answer and answers provided, 7th parliamentary term (2009 to 2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>Questions</th>
<th>Answers provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009 (from July)</td>
<td>2 734</td>
<td>2 668</td>
</tr>
<tr>
<td>2010</td>
<td>10 267</td>
<td>9 924</td>
</tr>
<tr>
<td>2011</td>
<td>11 985</td>
<td>11 536</td>
</tr>
<tr>
<td>2012</td>
<td>11 342</td>
<td>10 871</td>
</tr>
<tr>
<td>2013</td>
<td>13 888</td>
<td>13 201</td>
</tr>
<tr>
<td>2014 (until June)</td>
<td>5 391</td>
<td>5 065</td>
</tr>
<tr>
<td>Total</td>
<td>55 607</td>
<td>53 265</td>
</tr>
</tbody>
</table>


Table 5 – Questions for written answer and answers provided – 8th parliamentary term (2014 to 2019)

<table>
<thead>
<tr>
<th>Year</th>
<th>Questions</th>
<th>Answers provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014 (from July)</td>
<td>5 458</td>
<td>5 155</td>
</tr>
<tr>
<td>2015</td>
<td>15 555</td>
<td>14 804</td>
</tr>
</tbody>
</table>

66 The number of Commission answers is lower than the number of the questions asked because the Commission occasionally provides a joint answer to questions on the same topic.

67 Figures regarding parliamentary questions to the Commission (and answers provided) include questions addressed to the Vice President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy.

68 The number of Commission answers is lower than the number of questions asked because the Commission occasionally provides a joint answer to questions on the same topic.
The above-mentioned tables show that during the first two years of the 8th parliamentary term (2014, 2015), the number of questions asked increased as compared with the questions asked during the first two years of the 7th parliamentary term (2009, 2010). The situation changed in 2016 and 2017, when the number of questions asked dropped considerably.\(^{72}\) Since 2015, there has been a steady decline in the number of questions for written answer.

A certain percentage of questions for written answer are usually deemed inadmissible. These questions are subsequently withdrawn by their authors or cancelled. The remaining questions for written answer are all forwarded to the Commission and are all answered. Nevertheless, the number of answers provided by the Commission is lower than the number of questions sent, because the Commission sometimes sends a joint answer to several questions on the same topic.

Table 6 – Average time taken to answer, in days – European Commission (2015 to 2019)

<table>
<thead>
<tr>
<th>Year</th>
<th>Priorities</th>
<th>Non-priorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>57.6</td>
<td>57</td>
</tr>
<tr>
<td>2016</td>
<td>52</td>
<td>52</td>
</tr>
<tr>
<td>2017</td>
<td>48</td>
<td>48</td>
</tr>
<tr>
<td>2018</td>
<td></td>
<td>48</td>
</tr>
<tr>
<td>2019</td>
<td></td>
<td>39</td>
</tr>
</tbody>
</table>


As noted above, priority questions should be answered by the Commission within three weeks (21 days) from their notification. Non-priority questions should be answered within six weeks (42 days). As can be seen from the data included in table 6, the Commission’s average time to provide an answer is somewhat higher: on average, 57.6 days for non-priority and 49.2 for priority questions.

It should be highlighted that these deadlines have never been agreed with either the Commission or the questions' other addressees. The Commission considers these deadlines to be indicative. Nevertheless, cooperation between Parliament and the Commission improves the timely provision of answers. Furthermore, as noted by Parliament’s Directorate General for the Presidency (DG PRES), holidays and office closure days are not taken into account for the calculation of deadlines and answering times, except when offices are closed at the end of the year. In addition, the Commission uses a different system for calculating its targets for timely answers, as it takes all holidays and office closure dates into account.

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\(^{69}\) Answers to questions tabled in 2018, received by 30 April 2019.

\(^{70}\) The last possible day for tabling parliamentary questions was 18 April 2019.

\(^{71}\) Answers to questions tabled in 2018, received by 30 April 2019.

\(^{72}\) One can assume that this was partially also caused because of an amendment of the ROP in January 2017 that limited the number of questions that can be asked by a Member.
It should also be noted that the average time to answer non-priority questions in 2018 decreased, while there was a relative rise in the average time to answer the priority questions. In 2019, in both cases the Commission’s answer time has improved.73

Table 7 – Division of questions, based on political group, in 7th and 8th parliamentary terms

<table>
<thead>
<tr>
<th>Political group</th>
<th>7th parliamentary term (2009 to 2014)</th>
<th>8th parliamentary term (2014 to 2019)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EPP</td>
<td>17 879</td>
<td>11 921</td>
</tr>
<tr>
<td>S&amp;D</td>
<td>10 007</td>
<td>12 365</td>
</tr>
<tr>
<td>ALDE</td>
<td>5 902</td>
<td>4 858</td>
</tr>
<tr>
<td>Greens/EFA</td>
<td>3 864</td>
<td>2 392</td>
</tr>
<tr>
<td>ECR</td>
<td>3 993</td>
<td>3 118</td>
</tr>
<tr>
<td>GUE/NGL</td>
<td>3 794</td>
<td>6 983</td>
</tr>
<tr>
<td>EFDD</td>
<td>7 265</td>
<td>3 126</td>
</tr>
<tr>
<td>ENF</td>
<td>-</td>
<td>3 074</td>
</tr>
<tr>
<td>Non-attached Members (NI)</td>
<td>4 848</td>
<td>2 276</td>
</tr>
<tr>
<td>Total</td>
<td>57 552</td>
<td>50 113</td>
</tr>
</tbody>
</table>


A parliamentary question can be co-tabled by several Members and by Members from different political groups. As a result, the total number of questions included in table 7 is larger than the total number of questions tabled (table 4 and table 5).

Abolished in January 2019, minor interpellations for written answer had to address specifically designated issues. Conversely, major interpellations for written answer with debate provide the possibility to scrutinise the Commission in plenary. Between January 2018 and May 2019, there were nine major interpellations on:

- breaches of the children’s rights of working parents in Austria (G-000001/2019),
- state-terror activities by Iran in the EU (G-000008/2018),
- organic farming and geographical indications to strengthen the competitiveness of EU agriculture (G-000007/2018),
- recognising European Day as a public holiday aimed at promoting the values of the EU (G-000006/2018),
- violation of the fundamental human rights of women in Pakistan (G-000005/2018); debated in plenary on 5 July 2018,
- observance of the International Day of the Family (15 May) (G-000004/2018); debated in plenary on 31 May 2018,

73 These figures are relative as the last possible day for tabling parliamentary questions was 18 April 2019. This limited the number of questions sent to the Commission.

74 A question can be tabled jointly by several co-authors, sometimes belonging to different political groups. For this reason, the figures provided in this table refer to their authors and not to questions. Therefore, the total number of authors is higher than the total number of questions, and the total percentages can be over 100%.
the EU response to sexual misconduct in aid organisations (G-000003/2018); debated in plenary on 31 May 2018,
situation in the European shipbuilding industry (G-000002/2018); debated in plenary on 19 April 2018, and
Israel’s involvement in projects financed under Horizon 2020 (G-000001/2018); debated by plenary on 14 June 2018.

Table 8 – Minor and major interpellations to the European Commission (2017 to 2019)

<table>
<thead>
<tr>
<th>Year</th>
<th>Minor interpellations for written answer</th>
<th>Major interpellations for written answer with debate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>3</td>
<td>12</td>
</tr>
<tr>
<td>2018</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>2019</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>


The small number of these interpellations to date makes it difficult to assess their usefulness.

2.3.2.2. Questions for oral answer

With regard to questions for oral answer it should be noted that not all questions for oral answer with debate actually receive an answer. Some might never be placed on the agenda of Parliament and for debate in plenary. As noted in Rule 128 of the ROP (and above) the COP decides whether to put these questions on the draft agenda. Also, pursuant to Rule 149a (1), questions for oral answer can also be added when the plenary session agenda is adopted at the opening of the part-session. Questions not placed on the agenda lapse within three months of being submitted.

The following two tables show that the number of questions for oral answer that were asked in the last two legislative terms has decreased. Of course, since this data is incomplete, this conclusion is only preliminary. Nonetheless, the data shows a decreasing tendency of questions for oral answers with debate.

Table 9 – Questions for oral answer with debate – 7th parliamentary term (2009 to 2014)

<table>
<thead>
<tr>
<th></th>
<th>2009 (from July)</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014 (June)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debate in plenary</td>
<td>32</td>
<td>93</td>
<td>108</td>
<td>58</td>
<td>52</td>
<td>12</td>
<td>355</td>
</tr>
<tr>
<td>Lapsed without debate</td>
<td>28</td>
<td>77</td>
<td>136</td>
<td>108</td>
<td>59</td>
<td>35</td>
<td>443</td>
</tr>
<tr>
<td>Total</td>
<td>60</td>
<td>170</td>
<td>244</td>
<td>166</td>
<td>111</td>
<td>47</td>
<td>798</td>
</tr>
</tbody>
</table>


As noted previously, minor interpellations were abolished because of their limited use. This table supports this reasoning.
Table 10 – Questions for oral answer with debate – 8th parliamentary term (2014 to 2019)

<table>
<thead>
<tr>
<th></th>
<th>2014 (from July)</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debate in plenary</td>
<td>13</td>
<td>52</td>
<td>70</td>
<td>35</td>
<td>49(^{76})</td>
<td>6</td>
<td>225</td>
</tr>
<tr>
<td>Lapsed without debate</td>
<td>23</td>
<td>80</td>
<td>58</td>
<td>30</td>
<td>60(^{77})</td>
<td>10</td>
<td>261</td>
</tr>
<tr>
<td>Total</td>
<td>36</td>
<td>132</td>
<td>128</td>
<td>65</td>
<td>109</td>
<td>16(^{78})</td>
<td>486</td>
</tr>
</tbody>
</table>


According to data provided by DG PRES, the ratio between questions for oral answer with debate and questions for written answer is 798/55 607 (1.44 %) for the 7th parliamentary term (2009 to 2014), and 486/43 549 (1.12 %) for the 8th parliamentary term (2014 to 2019). Also, following the revision of the ROP that entered into force in 2017, there is no evidence suggesting that there was a ‘shift’ from questions for written answer to questions for oral answer with debate, or vice-versa.

2.3.2.3. Question time

Although ‘question time’ was introduced to the European Parliament as long ago as 1973, the possibility is not currently used. Parliament’s plenary website, which includes all the Member’s questions (for written and oral answer) including major and minor interpellations, does not contain any examples of questions and debates that took place during question time in the 2014-2019 legislative term. Additionally, the Parliament’s Public Register of Documents\(^{79}\) includes information on question time, up to 2011 only.

Based on information provided by DG PRES, the organisation of question time with the Commission was last used during the 2009-2014 legislature,\(^{80}\) but has not been used in the present parliamentary term, despite the fact that the ROP include specific rules allowing it. In 2011, a six-month trial period was carried out which resulted in the amendment of the rules applicable to question time, seeking a way to increase its attractiveness. A thematic approach was included in the subsequent amendment of the ROP adopted by Parliament, now reflected in the wording of Rule 129. However, despite these changes to the rules, the changes have never been put into practice.

Publicly accessible data does not explain the exact reason for the limited use of this possibility. This might be explained by the fact that, to a certain extent, it overlaps with the Members’ questions for oral answer, but also that in recent years, strong political will to revive the practice has not been in evidence.

Nonetheless, the existing rules on question time as they stand show several limitations for Members of Parliament to put their questions to the Commission. These include the thematic limitation, and the subsequent restriction to two or three Commissioners. The Commissioners responsible for a theme cannot always be present in Parliament’s hemicycle to answer the questions put to them. In their absence, another Commissioner may reply on their behalf. Of course, another option, that would be in accordance with the principle of democratic control, i.e. that all the Commissioners

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\(^{76}\) This figure shows questions for oral answer tabled in 2018 and answered in 2018 or 2019. In 2018, there were also debates on questions for oral answer tabled in 2017.

\(^{77}\) This figure shows questions for oral answer tabled in 2018 and that lapsed in 2018 or 2019. Some questions for oral answer tabled in 2017 lapsed in 2018.

\(^{78}\) The last possible day for tabling parliamentary questions was 18 April 2019.

\(^{79}\) Public Register of Documents, European Parliament website.

\(^{80}\) It appears that the last time this was used was during the January 2013 plenary session.
would attend the Parliament's sessions and would answer Members' questions, is unlikely to be possible in practice.

A similar situation concerns the special 'question hour' with the President of the Commission. Based on a search of the plenary agendas on the Parliament’s website, and on the data received from DG PRES, the last question hour was held in June 2011 and the procedure has not been used since then.81

2.3.2.4. Qualities of questions and replies

As to the division between individual policy areas of questions, no quantitative data exists in this regard. The actual scope of questions for written answer is very wide, covering nearly every aspect of the activities of the EU, starting with the application of the Treaties, through the implementation of EU legislation, and ending with statistical and factual information. The policy areas behind the questions cover every field of the Commission's competence.

Based on the data provided by Parliament's DG PRES, there is general satisfaction with the Commission answers among Members of Parliament. Some, however, have complained about the Commission's frequent delays in answering, vis-à-vis the timeframe established in the ROP.

However, Members have also expressed concerns about the quality of the answers. In particular, an oral question to the Commission on 'Commission's answers to written questions'82 was tabled by 246 MEPs in 2017. The Members, in the question, noted that due to a large number of questions, Parliament had set a cap for the number of questions to be asked by a Member. They however regretted that 'the Commission's answers are often uninformative'. The Members wanted to know the requirements and constraints imposed by the Commission upon itself with regard to answering the questions, and the legal basis for these decisions. Furthermore, the Members wanted the Commission to justify the 'lack of substantial content' in its answers. The Members also asked about future changes to the format of the Commission's answers. The question was (briefly) debated83 with and answered by Tibor Navracsics, European Commissioner for Education, Culture, Youth and Sport in plenary on 3 April 2017. The Commissioner noted that the vagueness of the Commission's replies is linked to the fact that the Commission is a political body which provides political answers and that there might be limits to its competences, although he promised an improvement in the quality of the answers.

In this regard, following an exchange of letters between the Presidents of Parliament and the Commission at the beginning of 2017, the two institutions' services cooperated to work together to take the necessary steps to address these two issues.

Occasionally, a question addressed to the Commission by individual Members can lead to a Parliamentary resolution.84 Such a use of this procedure can improve its impact, although it would be inappropriate to use it on every occasion.

Members' questions for written answer must respect the admissibility criteria established in Annex II of the ROP. For example, they 'must fall exclusively within the limits of the competences of the addressee, as laid down in the relevant Treaties or in legal acts of the Union, or within its sphere of activity', 'be of general interest' and 'not relate to strictly personal matters'. For instance, if

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81 As noted in Section 1.3, in its resolution of 12 February 2019 on the implementation of the Treaty provisions on Parliament's power of political control over the Commission, Parliament asked the Conference of Presidents to put question time back on the plenary agenda as it considered it an important element of parliamentary scrutiny.

82 Oral question to the Commission on 'Commission's answers to written questions', European Parliament.


question refers to an internal issue of a particular Member State, the Member(s) posing the question can be asked to redraft their question to avoid that it is deemed inadmissible and not forwarded to the Commission.

In 2017, the ROP changed with regard to the number of questions that could be asked by Members per month. The intention behind this modification was to allow the Commission to provide good quality answers within a shorter timeframe, thanks to a reduction in the number of questions.

It is unclear to what extent the Commission has changed its approach to provide more informative and more substantial answers. It is also not clear whether there are any real improvements in terms of the quality of the Commission's answers due to the limitation of the number of written questions Members can ask per month. This is caused by the fact that a systematic assessment of the quality of answers has never been performed because of the difficulties inherent in such an assessment. Since Parliament's services are not in a position to assess the quality of the answers, it is impossible for the Parliament's Secretariat to appreciate whether there has been any improvement in quality following the changes to the ROP.

In some cases, Members have tabled additional questions in order to ask for clarification of the answers to their previous questions. In addition, negative feedback on the quality of an answer has occasionally been received by DG PRES or by the President, in particular when a Member intended to complain about a reply they considered insufficient.

2.3.3. Summary

Members' questions to the Commission (whether for written or oral answer) are one of the most visible methods of Parliament's scrutiny of the Commission. Despite the visibility of this tool of democratic control, it remains questionable whether questions and (written or oral) answers have a significant influence on the work of the Commission. Although the Commission spends considerable time dealing with answering the questions, as noted above, the quality of the answers, especially their vagueness, has remained an issue (at least until 2017).

A potential influence on the quality of the answers could have been exerted by an exponential increase in the number of questions for written answer tabled by Members, which was remarked towards the end of the previous parliamentary term and the beginning of the current term. This increase ultimately led to a revision of the ROP that streamlined the procedure for questions for written answer and replaced the previous system. This change in the ROP has proved effective and has maintained the number of questions within a reasonable number. Apart from streamlining the procedure, this modification should also allow the Commission to provide better quality answers.

So far, use of interpellations has been limited, as since their creation in 2017, 17 major interpellations and one minor interpellation have been addressed to the Commission. It seems that the potential of these interpellations is not yet fully utilised. An increase in their use can have an influence on the number of questions asked of the Commission. Naturally, it should to be taken into account that these interpellations are connected with a certain number of Members (at least five per cent), a political group or a committee.

Another possibility for scrutiny that does not seem to perform optimally at present is that of 'question time' and 'regular question hour with the President of the Commission'. Although these instruments exist formally in the ROP and the FA 2010, they have not been used in the eighth legislative term (2014 to 2019).

As it is currently impossible to assess whether the quality of the Commission's replies increased following the changes to the ROP in 2017, a systematic assessment of the quality of answers has never been performed due to the difficulties such an assessment implies. It can, however, be concluded that, despite some minor issues, Member's questions to the Commission are a successful
tool in the Parliament's political scrutiny of the Commission, although it is questionable whether these questions and their replies could have more substantive results.

2.4. Committee of inquiry provisions and special parliamentary committees

Committees of inquiry are one of the most powerful and certainly one of the most visible instruments for holding the executive accountable in a parliamentary democracy. Committees of inquiry provide parliaments with a range of investigative powers. These powers enable parliaments to inquire into an issue independently of the judiciary or other administrative authorities. In general, these inquiries do not substitute for judicial or administrative proceedings or other investigative authorities (e.g. ombudsmen). Their character is driven by political considerations, as they are intended to deal with a specific issue on the political agenda. In doing this, they often react to citizens' or societal concerns, or the needs of the legal systems. The European Parliament is no exception, as it can set up temporary committees of inquiry with investigative powers.

Conversely, special parliamentary committees, often referred to as select committees, temporary committees or ad hoc committees, are not necessarily always linked to parliamentary investigative powers. In contrast with standing parliamentary committees, these are temporary, and established to examine a specific ad hoc subject, task or a legislative issue. As soon as the investigation is completed, a special committee is dissolved. As in the case of committees of inquiry, special committees can also be set up by the European Parliament.

2.4.1. Rules

The rules concerning committees of inquiry and special parliamentary committees overlap to some extent.

2.4.1.1. Committees of inquiry

Parliament's power to establish committees of inquiry is based on Article 226 TFEU, while the specific implementation of this right is presently included in Rule 198 of the ROP. The TFEU enables Parliament to set up a temporary committee of inquiry to investigate 'alleged contraventions or maladministration in the implementation of Union law'. Such contraventions and/or maladministration in the implementation of Union law are the first limitation of committees of inquiry.

The TFEU furthermore limits Parliament's power to establish such a committee if 'the alleged facts are being examined before a court and while the case is still subject to legal proceedings'. This is applicable to proceedings pending before a national court, as well as before the Court of Justice of the European Union. Parliament is, however, not limited in its action if judicial proceedings have been completed and the court has delivered its final ruling. In addition, Parliament is not limited in setting up an inquiry committee in the case of a European Ombudsman's investigation or an investigation by the European Court of Auditors. The TFEU also underlines the temporary character of committees of inquiry by highlighting the fact that such committees cease to exist on the submission of their report.

85 The new version of Rule 198 that will apply from the opening of the July 2019 part-session is included in the Appendix to the March 2019 ROP. The provision affected by the change is Rule 198 (4).

86 Article 2(3) Decision 95/167/EC.
The TFEU does not exclude the EU common foreign and security policy (CFSP) from the Parliament’s right of inquiry.

Detailed provisions applicable to committees of inquiry are currently included in the ROP and in Decision 95/167/EC of the European Parliament, the Council and the Commission on the detailed provisions governing the exercise of the European Parliament’s right of inquiry. Decision 95/167/EC clarified the scope of the committees of inquiry as: (1) EU institutions or bodies; (2) Member States’ public administrative bodies empowered to implement EU law; and (3) natural or legal persons empowered to implement EU law (Article 2(1)). The decision also underlines the limitations of committees of inquiry to ‘inquiries necessary to verify alleged contraventions or maladministration in the implementation of EU law’ (Article 3(1)).

The establishment of a committee of inquiry can be requested by a quarter of Parliament’s component Members (currently 187 of 751 Members). Subsequently, Parliament decides on a proposal from the COP whether or not to establish such a committee (Rule 198(4)).

The composition and rules of procedure of committees of inquiry are set by Parliament. Rule 198(3) connects the working methods of the committees of inquiry with that of the standing committees, as it notes that the inquiry committees’ modus operandi is governed by the rules applicable to standing committees.

Generally, testimonies and hearings in front of these committees are held in public, however one-quarter of the committee of inquiry’s Members, the EU or national authorities can request to hold proceedings in camera. Witnesses and experts also have the right to make a statement or testimony in camera.

The committee of inquiry adopts a report, which can include minority opinions. Based on that report, Parliament can decide to adopt recommendations.

These recommendations may be forwarded to the Commission (or a Member State or another EU institution). The Commission is not bound by the recommendations, though it can ‘draw therefrom the conclusions which it deems appropriate’ (Article 4(3), Decision 95/167). The example of the last two recommendations demonstrates that the Commission takes the recommendations seriously, as in both cases it provided extensive follow-up and agreed to take action.

The committees of inquiry cannot deliver opinions to other committees.

2.4.1.2. Special parliamentary committees

Neither the TFEU nor the TEU include any specific rules on the establishment, powers or objectives of special parliamentary committees. However, Rule 197 of the ROP allows for their establishment. The proposal to set up a special parliamentary committee has to come from the COP, however such a committee can be set up at any time.

The term of office of special parliamentary committees is generally 12 months, although this can be extended by Parliament. Similarly to inquiry committees, special parliamentary committees cannot deliver opinions to other committees.

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88 In the event of Brexit, a request to set up of a committee of inquiry will need the support of 175 out of 705 Members. See P8_TA(2018)0029.

89 See data included in Table 10.

90 The new version of Rule 197 that will apply from the opening of the July 2019 part-session is included in the Appendix to the March 2019 ROP. The provision affected by the change is Rule 197 (1).
Since there are no other specific rules on the special parliamentary committees, it is possible for them to deal with any topic or policy area.

2.4.1.3. Differences

The following table provides a short overview of the main differences between inquiry committees and special parliamentary committees.

Table 11 – Committees of inquiry and special parliamentary committees: main differences

<table>
<thead>
<tr>
<th>Legal basis</th>
<th>Committee of inquiry</th>
<th>Special parliamentary committee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Article 226 TFEU</td>
<td>Rule 197 ROP</td>
</tr>
<tr>
<td></td>
<td>Decision 95/167/EC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rule 198 ROP</td>
<td></td>
</tr>
<tr>
<td>Threshold</td>
<td>Request of one-quarter of Members</td>
<td>Request of one-quarter of Members</td>
</tr>
<tr>
<td></td>
<td>Decision taken by majority of Members in plenary</td>
<td>No minimum number of Members is needed to request a special committee is set-up, the proposal comes directly from the COP.</td>
</tr>
<tr>
<td>Object</td>
<td>Alleged contraventions or maladministration in the implementation of Union law (rather limited flexibility)</td>
<td>Any issue (very flexible)</td>
</tr>
<tr>
<td>Subject</td>
<td>EU institutions and bodies</td>
<td>As there are no specific rules on the powers of special committees they can in practice have the same (and potentially more) powers as a committee of inquiry.</td>
</tr>
<tr>
<td></td>
<td>Public administrative body of Member State implementing EU law</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Legal persons and natural persons empowered by EU law to implement it</td>
<td></td>
</tr>
<tr>
<td>Duration</td>
<td>Temporary – not more than 12 months</td>
<td>Temporary – not more than 12 months</td>
</tr>
<tr>
<td></td>
<td>Can be prolonged twice for 3 months by reasoned decision</td>
<td>Can be prolonged</td>
</tr>
<tr>
<td></td>
<td>Ceases to exist on the submission of its report or at the latest upon expiry of a period not exceeding 12 months</td>
<td></td>
</tr>
<tr>
<td>Powers</td>
<td>Organise hearings and testimonies (public or in camera)</td>
<td>As there are no specific rules on the powers of special committees they can in practice have the same (and potentially more) powers as a committee of inquiry.</td>
</tr>
<tr>
<td></td>
<td>Hear witnesses and experts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Inspect documents</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Request Member State and EU institutions to appear before the committee via authorised official</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Carry out fact-finding missions$^{91}$</td>
<td></td>
</tr>
</tbody>
</table>

Data Source: TFEU, TEU and the European Parliament ROP.

$^{91}$ Although neither the Treaties nor the ROP explicitly mention this power, fact-finding missions have been used by the committees in practice.
2.4.2. Application of rules

Since 2009, Parliament has set up several committees of inquiry and special parliamentary committees. However, use of committees of inquiry is not extensive, as after 2009 there were only two cases in which Parliament decided to set up such a committee, while both cases occurred in the 8th legislative term. Even before the Lisbon Treaty entered into force, the committee of inquiry institute was not extensively used, as only three other committees of inquiry were set-up.

2.4.2.1. Committees of inquiry

Between 2009 and 2019, Parliament set up the Committee of Inquiry on Emission Measurements in the Automotive Sector (EMIS) and the Committee of Inquiry on Money Laundering, Tax Avoidance and Tax Evasion (PANA). Both committees of inquiry reacted to crises: 'Dieselgate' and the 'Panama papers' leaks. In both cases, Parliament reacted rapidly to set-up a committee of inquiry in a very short time.

Before 2009, Parliament set up three more committees of inquiry: the Temporary Committee of Inquiry into the Crisis of the Equitable Life Assurance Society (EQUI); the Temporary Committee of Inquiry into BSE (bovine spongiform encephalopathy) (ESB 1); and the Temporary Committee of Inquiry into the Community Transit System (TRANSIT); which were active in the 1990s and 2000s.

Tables 12 and 13 provide additional information on Parliament's committees of inquiry, between 2009 and 2019, and prior to 2009. The tables include the length of mandate, initiating decision, draft report, and a short delimitation of the inquiry’s main subject. The tables also include a reference to the Parliament's recommendations and the follow-up adopted by the Commission in response.

Table 12 – Committees of inquiry 2009 to 2019

<table>
<thead>
<tr>
<th>Committee of inquiry</th>
<th>Date of mandate</th>
<th>Set-up decision</th>
<th>Report/draft report</th>
<th>Main subject</th>
<th>Parliament recommendation/Commission follow-up</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee of inquiry on money laundering, tax</td>
<td>June 2016-December 2017</td>
<td>8 June 2016 (P8_TA(2016)0253)</td>
<td></td>
<td></td>
<td>13 December 2017 (P8_TA(2017)0491)</td>
</tr>
</tbody>
</table>

92 See the specific data in Table 11.
94 It took only two months for the Parliament to set-up the EMIS committee in December 2015 following the US Environmental Protection Agency accusations of September 2015 against Volkswagen. Equally, only two months passed between April 2016 when the International Consortium of Investigative Journalists started to reveal offshore entities (the Panama Papers') and Parliament's setting-up of the PANA committee in June 2016.
95 See the specific data in Table 12.
avoidance and tax evasion (PANA)

Report, 8 November 2017 (A8-9999/2017)

Money laundering, tax avoidance and tax evasion etc.
11 April 2018 (SP(2018)101)

Source: Legislative Observatory (OEIL), European Parliament.

In both of the above-mentioned cases, the committees of inquiry were set up by Parliament to investigate specific alleged contraventions or maladministration in the implementation of EU law. In the first case it was (among other issues) the alleged failure of the Commission to comply with obligations under Regulation 715/2007, and in the second, the alleged failure of the Commission to enforce implementation of Directive 2005/60/EC. At the end of their terms, both committees submitted a final report with findings. Parliament considered these reports in plenary and addressed extensive recommendations to the Commission (and the Council and the parliaments of Member States).

Subsequently, as prescribed by the rules, the Commission reacted to Parliament’s recommendations in its follow-up documents. The Commission reacted to individual points raised by Parliament either by replying to each paragraph of the Parliament’s recommendations or by replying to clusters of Parliament recommendations.

In both cases, Parliament’s standing committees were instructed by Parliament to monitor the actions taken on the conclusions and recommendations of the inquiry committee. Parliament instructed several committees to undertake monitoring activities regarding the conclusions and recommendations of the EMIS committee: the ENVI, ITRE, IMCO and TRAN committees. In the case of the PANA committee, political groups were invited to decide on the establishment of a temporary special committee to follow-up on the work of the PANA committee.

Table 13 – Committees of inquiry prior to 2009

<table>
<thead>
<tr>
<th>Committee of inquiry</th>
<th>Date of mandate</th>
<th>Set-up decision</th>
<th>Report/draft report</th>
<th>Main subjects</th>
<th>Parliament recommendation/Commission follow-up</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Data not available.</td>
</tr>
</tbody>
</table>
Despite the use of the Treaty provisions regarding Parliament's right of inquiry, the application of specific parts of this right has not been without challenge.

For example, in its recommendation following the inquiry of the PANA committee on money laundering, tax avoidance and tax evasion,96 Parliament stressed that 'the current legal framework for the operation of committees of inquiry ... is outdated'. Parliament also noted that this system does not provide 'the necessary conditions under which the exercise of Parliament's right of inquiry can effectively take place' (point 190). Parliament here also noted that 'lack of powers and the limited access to documents significantly hampered and delayed the work of the inquiry'. This precluded a full assessment of alleged breaches of EU law (point 191).

During the PANA inquiry, Parliament also noted several failures by the Commission to provide the documents requested or that there were long delays in providing the documents (point 192). In this regard, Parliament called for the introduction of an accountability mechanism. It also voiced the opinion that such committees should be granted the ability to subpoena persons and to have access to all relevant documents.

In its recommendation following the inquiry of the EMIS committee into emission measurements in the automotive sector,97 Parliament noted several limitations of the committee of inquiry. As in the PANA inquiry, Parliament reiterated the need for committees to have power to compel witnesses to appear and to compel the production of documents (point 77). It also noted cases in which documents were not produced or were produced only after long delays (point 82). Among other things, Parliament considered the 12 month time limit for an inquiry committee 'arbitrary and often insufficient' (point 88). It called for a change to the ROP (points 89-91) and called for 'a development of a defined set of rules relating to the effective functioning of committees of inquiry' (point 92).

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96 Recommendation following the inquiry of the PANA committee on money laundering, tax avoidance and tax evasion, European Parliament, 13 December 2017.

97 Recommendation following the inquiry of the EMIS committee into emission measurements in the automotive sector, European Parliament, 4 April 2017.
In both recommendations, Parliament called for clarification and an update of the existing rules and pointed to its 2015 proposal. On 25 April 2018, a non-paper with regard to Parliament’s committees of inquiry was politically endorsed by the AFCO committee. This non-paper was intended to serve as a basis for fresh political discussions between Members, the Council and the Commission on a legislative proposal to strengthen Parliament’s investigatory powers. It constituted a new articulated proposal for a regulation. It was based both on the original Parliament proposal of 2014 and several modifications suggested by the Legal Services of the three main EU institutions following their meetings, which took place in the first half of 2017. Its aim was to accommodate new proposals to resolve the concerns expressed by other institutions (mainly the Council). The proposal also took account of the experience of the PANA and the EMIS committees. However, the proposal included in the non-paper was not appreciated by the Council, which, in its letter of 25 October 2018 to the AFCO committee, refused to support the proposal. The Council disagreed with various points and underlined the need for further discussions. During meetings with the AFCO committee the Commission too expressed reservations about the non-paper.

Subsequently, both the Commission and the Council received a question from Danuta Hübner (EPP, Poland) on behalf of the AFCO committee. Ms Hübner, AFCO Chair, expressed criticism and asked the Commission to explain the deadlock and to provide reassurances that it would re-engage in dialogue. The Commission was asked to outline its institution’s position on the situation and provide its support for Parliament’s request. The Council was asked to explain the reasons for the Council’s blockage. Furthermore, Ms Hübner asked the Council to provide the Council Presidency with a clear mandate to negotiate with Parliament and the Commission on this particular issue, with a view to reaching an understanding.

Both the Council and the Commission provided their answers during the plenary session on 18 April 2019. George Ciamba, President-in-Office of the Council, noted that according to the Council the 2014 proposal of Parliament regulation was intended to extend the rights of committees of inquiry

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100 Question for oral answer O-000004/2019 to the Commission, 22 January 2019.
102 Minutes, 17 April 2019, PV 17/04/2019 - 25.
‘considered contrary to Article 226’. He saw the proposal included in the non-paper as a step forward though it contained ‘a number of provisions which give rise to serious legal and political concerns for the Council’. Nonetheless, he noted that the Council remains ‘open to a constructive dialogue with the European Parliament in order to explore ways forward’ and that it fully respects the duty of sincere cooperation. 103 Elżbieta Bieńkowska, Commissioner for Internal Market, Industry, Entrepreneurship and SMEs, provided the Commission’s answer. She also noted that the latest non-paper proposal included several improvements, though it still contained a number of legal and institutional concerns. Nonetheless she stressed the Commission’s willingness and commitment to engage in ‘a constructive trilateral discussion’.104

Reacting to the answers provided by the Commission and the Council in plenary and to the status quo concerning its right of inquiry, on 18 April 2019 Parliament adopted a resolution on the negotiations with the Council and Commission on the legislative proposal for a regulation on the European Parliament’s right of inquiry. 105 Parliament expressed its deepest disagreement with the Commission’s and Council’s attitudes as they were preventing ‘a formal meeting to discuss at political level possible solutions to the problems identified’ (point 1). It suggested that the JURI committee ‘examine the feasibility of preparing an action before the Court of Justice of the European Union in connection with the principle of mutual sincere cooperation between institutions’ and ‘check and report on the violations by the Council of the actual legal framework of the committees of inquiry created during this term’ (point 3). It also invited the Spitzenkandidaten to offer their public and political support on this matter (point 7).106 Finally, it invited the Council and the Commission to ‘resume negotiations with the newly elected Parliament, acknowledging the progress made with the new wording of the proposal presented in the non-paper and based on the work carried out by the legal services of the three institutions’ (point 6). 107

The Commission has not yet submitted its follow-up to this resolution (as of 15 May 2019).

This matter will therefore need to be resolved by the new Parliament.

2.4.2.2. Special parliamentary committees

Since 2009, Parliament has set up eight special parliamentary committees. Table 14 provides information on the special parliamentary committees that were active between 2009 and 2019. The table includes the length of their mandate, set-up decision, the committee’s draft report, a short delimitation of the committee’s main subject, and where possible Parliament’s recommendations based on the report and the Commission’s follow-up. 108
Table 13 – Special parliamentary committees 2009 to 2019

<table>
<thead>
<tr>
<th>Special committee</th>
<th>Date of mandate</th>
<th>Date of mandate</th>
<th>Set-up decision</th>
<th>Report</th>
<th>Main subjects</th>
<th>Parliament recommendation/Commission follow-up</th>
</tr>
</thead>
</table>

109 This resolution does not include any recommendations per se. Nonetheless, it includes several calls on the Commission.
Although (or because) the rules on the setting-up of special parliamentary committees are rather general, these committees are more common than inquiry committees. This lack of very specific rules on the one hand strengthens the committees’ flexibility and allows them to investigate various issues. They are not limited to investigating maladministration or alleged contraventions in implementation of EU law. On the other hand, this lack of rules might decrease their persuasiveness, as they may face similar problems as the inquiry committees (e.g. unresponsive witnesses or no access to documents) but without any legislative/Treaty backing, i.e. they suffer from a lack of formal investigative powers.

Nonetheless, following submission of report by a special committee, Parliament can address some recommendations to the Commission, which the Commission usually tackles in its follow-up.

Special parliamentary committees are not limited to investigating alleged contraventions or maladministration in the implementation of Union law. Their scope of oversight can include almost anything, from general policy issues such as organised crime, money laundering, climate change or human genetics, to investigating specific issues or contraventions. This may the differences between these committees and inquiry committees to some extent blur. This substantive overlap is partially strengthened by Parliament. In its resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect, Parliament noted the insufficient competencies of special committees and committees of inquiry, including for instance, the right to summon witnesses and enforce document access.

2.4.3. Summary

Although Article 226 TFEU allows Parliament to formally set up an inquiry committee as a matter of fact, this power has not been used extensively. More than inquiry committees, Parliament tends to set up special parliamentary committees that are regulated only by the ROP. One of the explanations for the limited use of the inquiry committees is their narrow scope, as they can only investigate specific alleged contraventions or maladministration in the implementation of EU law by bodies and individuals empowered to do so.

Despite a slight under-use of this particular Treaty provision, Parliament can react very quickly and set up an inquiry committee in a very short period of time, as can be seen in the case of both inquiry committees set up after 2009. According to some authors, the reason for this scarce use of committees of inquiry, in contrast to special parliamentary committees, is to a great extent 'the more limited scope of the right of inquiry according to Article 226 TFEU'.

Data source: Legislative Observatory (OEIL), European Parliament.

110 Resolution on tax rulings and other measures similar in nature or effect, European Parliament, 6 July 2016.
Special parliamentary committees are not necessarily linked with Parliament’s formal scrutiny powers. However thanks to the flexibility of their rules (or lack thereof) they can carry out investigative functions and thus partially substitute for inquiry committees. This lack of legislative backing however underlines their dependence on the goodwill of witnesses, experts, or bodies and institutions possessing a relevant document. However, special committees can raise this issue before the Court if the Commission fails to act. Inquiry committees have at least the advantage that they can base their requests on the Treaty provisions. The investigative flexibility of special committees is thus fairly limited by their reliance on the stakeholders possessing the information needed in the inquiry.

Thanks to special parliamentary committees’ investigative powers, and a lack of clear competences, a certain overlap exists that blurs the division between their role and the role of inquiry committees. However, both inquiry committees and special parliamentary committees adopt a report which is debated by Parliament in plenary session. Parliament can, based on this report, direct a recommendation to the Commission. Nevertheless, Parliament has only limited power to compel the Commission to follow up on such recommendations. In practice, the Commission tries to react when possible. Its follow-up documents comprehensively address the recommendations and their fulfilment can (should) be monitored by Parliament’s standing committees.

That said, unless Parliament connects the results of an inquiry with some stronger tool, such as a motion of censure, or links it to its decision on budget/discharge or a threat thereof, it has few possibilities to persuade the Commission to follow its recommendations. In general, it seems that Parliament and legal certainty alike would profit from clearer rules on the Parliament’s right of inquiry. The adoption of a regulation on the Parliament’s right of inquiry might provide clarification. However, in this case, Parliament needs to persuade the Council and the Commission of the necessity of such a regulation.

2.5. Reporting, consultation and informing by the European Commission

Depending on the specifics of their constitutional relations, national governments are often obliged to inform national parliaments about various topics, either when asked or proactively. Very similar relations are envisaged in the Treaties with regard to the Commission’s obligation to keep Parliament up-to-date.

The Treaties underline the Parliament’s right to be informed by the Commission or the Commission’s obligation to inform Parliament in numerous places. This section of the present study distinguishes between the Parliament’s right to be informed through Members’ questions and the Parliament’s right to be informed based on a Commission report or other document directly required in the Treaties. Naturally, these rights are ways to implement the Parliament’s prerogative to be informed by the Commission. This distinction is made in order to underline other ways in which Parliament can carry out its prerogatives.

2.5.1. Rules

The right of Parliament to be provided with information is considered to be the basis for the Parliament’s political control of the executive. Several Treaty provisions give Parliament the right to receive a report from the Commission or to be consulted or informed. On the other hand, several provisions set out that Parliament can request the Commission to report, or to submit a report, or provide a particular piece of information. This particular right, depending on its legal provision,

112 Despite having this power, it is rather improbable that an inquiry committee with a lifespan of 12 months will start Court proceedings that usually last longer than a year on the sole basis that it has not received a requested document.
therefore has an active and a reactive part. The following provisions only highlight the most outstanding examples found in the Treaties. In addition, numerous legal provisions included in secondary European law (regulations and directives) that oblige the Commission to report, inform or consult Parliament on implementation of a particular legal act or its specific provisions cannot be ignored. However, these obligations are not discussed here. Some of these Commission ‘reporting obligations’ are linked with a specific subject described in other sub-chapters i.e. the Commission’s obligations related to budgetary issues (e.g. evaluation report pursuant to Article 318 TFEU), the Commission work programme (CWP) (point 11, Interinstitutional Agreement, 2016), with delegated acts (annex to the Interinstitutional Agreement, 2016) or consultations between Parliament and the High Representative on CFSP and CSDP (Article 36 TEU).

The following examples point to cases in which the European Commission is obliged to report or submit a report to Parliament. These examples are not exhaustive.

- According to Article 249 TFEU, the Commission is obliged to publish a general report on the activities of the Union annually. This report should be submitted no later than one month before the opening of the Parliamentary plenary session. The report has subsequently to be discussed in Parliament’s open session (Article 233 TFEU).
- The Commission has to report to Parliament with regard to non-discrimination and citizenship of the Union, while taking the development of the EU into account, at three year intervals (Article 25 TFEU).
- The results of multilateral surveillance in economic policy should be reported to Parliament (Article 121(5) TFEU).
- Another report that has to be forwarded to Parliament is an annual report on progress in achieving the objectives of Article 151, i.e. the article on social policy (Article 159 TFEU). Social developments within the Union should be reported in the Commission’s annual report to Parliament (Article 161 TFEU).
- Article 175 TFEU requires the Commission to submit a report on the progress made towards achieving economic, social and territorial cohesion and on the manner in which the various means provided for in this article have contributed to the progress. This report has to be submitted at three year intervals.
- A report should be sent by the Commission in accordance with Article 190 TFEU that includes information on research and technological development activities and the dissemination of results during the previous year.
- When conducting negotiations with third countries or international organisations, the Commission is obliged by Article 207 TFEU to report regularly to Parliament on the progress of these negotiations.
- The Commission needs to submit a further annual report to Parliament, pursuant to Article 325(2) TFEU with regard to protection of the EU’s financial interests and the fight against fraud.

A few Treaty provisions allow Parliament to request information, a report, or other action from the Commission. These cases are however infrequent, as the Treaties do not provide many examples. For instance, according to Article 319(3) TFEU, Parliament can request that the Commission report on the measures taken in the light of Parliament’s comments and observations during the discharge procedure. Parliament can also, pursuant to Article 225 TFEU, request that the Commission submit

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114 A more detailed description of these obligations is provided below.
an appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties.\textsuperscript{115}

Occasionally, the Treaties require Parliament to discuss the information provided, as in the case set out in Article 233 TFEU. Pursuant to this provision, Parliament is obliged to discuss the annual general report submitted by the Commission.

Provisions included in the Treaties, mainly the TFEU, are not the only provisions setting the Parliament’s right for information. Various provisions are also included in the FA 2010, or in the Interinstitutional Agreement of 2016 that provide these rights. For example, point 45 of this latter agreement requires the Commission to report annually to Parliament on the application of Union legislation,\textsuperscript{116} or report on the implementation of the CWP (point 11).

General rules on the provision of information are also included in the FA 2010. Among other provisions, the FA 2010 requires that the Commission is aware of the Parliament’s resolutions, both legislative and non-legislative, and replies to their substance. In this regard, point 16 of FA 2010 establishes rules for the Commission’s ‘follow-up’ documents. With regard to Parliament’s resolution, the Commission should, generally within three months after the adoption of a resolution, provide information to Parliament in writing on action taken in response to specific requests addressed to the Commission in the resolution. The Commission should provide this information even if it has a different opinion on the matter to the Parliament.

The Commission should therefore provide: (1) a written answer, (2) within a set period, (3) on actions taken in connection with the Parliament’s requests included in its resolutions, (4) even if it does not agree with Parliament’s views.

2.5.2. Application of rules

There is no evidence in the publicly available data and the data provided by the Parliament’s services to show that the Commission ignores or disregards its Treaty based obligations to provide reports or to inform Parliament.\textsuperscript{117}

Tables 15, 16 and 17 below provide information on the Commission’s Treaty based obligations to report, inform and consult the Parliament. The tables identify the main subject of this obligation, its frequency (if given) and the actual action of the Commission. These tables also include some examples of obligations based on the Interinstitutional Agreement on better-law making (2016) and the Framework agreement between Parliament and the Commission (2010). These are marked by one or two asterisks (*) and (**) respectively. The examples included in the tables are not exhaustive.

The usual entry point for information or a report coming from the Commission to Parliament is through a parliamentary committee. Information issued by the Commission is also sometimes provided directly to the Parliament’s President, who subsequently announces this information to plenary. Information on administrative issues can also be provided to the Secretary General of Parliament directly.

\textsuperscript{115} In this regard see Section 2.8.2.

\textsuperscript{116} The actual Commission reports on monitoring and application of EU law are older than the ‘requirement to report on monitoring and application of EU law’ to Parliament, as the first annual report was adopted in April 1984 (COM(84) 181 final).

\textsuperscript{117} This statement does not apply to the Commission’s reporting obligations based on the provisions of EU secondary law (regulations or directives).
Table 14 – Treaty-based reporting obligations

<table>
<thead>
<tr>
<th>Informing provision</th>
<th>Main subject</th>
<th>Frequency</th>
<th>Action adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 25 TFEU</td>
<td>Non-discrimination and the EU citizenship</td>
<td>Every three years</td>
<td>The Commission prepares reports on progress towards effective EU citizenship (e.g. 2010, 2013, 2017).</td>
</tr>
<tr>
<td>Article 121 (5) TFEU</td>
<td>Multilateral surveillance</td>
<td>Not specified</td>
<td>It seems that no specific reports on multilateral surveillance are adopted by the Commission.</td>
</tr>
<tr>
<td>Article 159 TFEU</td>
<td>Social policy issues</td>
<td>Annual</td>
<td>A chapter on social policy is included in the Commission's general annual reports.</td>
</tr>
<tr>
<td>Article 161 TFEU</td>
<td>Social developments</td>
<td>Annual</td>
<td>A chapter on social developments is included in the Commission's general annual reports.</td>
</tr>
<tr>
<td>Article 175 TFEU</td>
<td>Progress made towards achieving economic, social and territorial cohesion</td>
<td>Every three years</td>
<td>The Commission prepares reports on economic, social and territorial cohesion (e.g. 2010, 2014, 2017).</td>
</tr>
<tr>
<td>Article 190 TFEU</td>
<td>Research and technological development</td>
<td>Annual</td>
<td>The Commission prepares reports on research and technological development annually (e.g. 2015, 2016, 2017).</td>
</tr>
<tr>
<td>Article 207 (3) TFEU</td>
<td>Negotiations on international agreements</td>
<td>Regular</td>
<td>Based on accessible data, parliamentary committees are informed about negotiations on international agreements.</td>
</tr>
<tr>
<td>Article 249 TFEU</td>
<td>General report on the activities of the Union</td>
<td>Annual</td>
<td>The Commission prepares general reports annually (e.g. 2015, 2016, 2017, 2018).</td>
</tr>
<tr>
<td>Article 318 TFEU</td>
<td>Evaluation report on the EU's finances, accounts relating to the implementation of budget, financial statement of the EU's assets and liabilities</td>
<td>Annual</td>
<td>This, budget related, report is submitted by the Commission together with additional documents, as required by the text of the Treaties.</td>
</tr>
<tr>
<td>Article 319 (3) TFEU</td>
<td>Measures taken in the light of Parliament's (or Council's) observations with regard to a discharge procedure</td>
<td>On Parliament's request</td>
<td>The Commission prepares reports on follow-up to the discharge procedure annually (e.g. 2014, 2015, 2016).</td>
</tr>
<tr>
<td>Article 325 (5) TFEU</td>
<td>Measures taken related to countering fraud and illegal activities affecting the EU's financial interests</td>
<td>Annual</td>
<td>The Commission prepares reports on the protection of the EU's financial interests annually (e.g. 2014, 2015, 2016, 2017).</td>
</tr>
<tr>
<td>Point 11 IIA BLM*</td>
<td>Commission's annual work programme</td>
<td>Regular</td>
<td>See Section 2.8.1.</td>
</tr>
<tr>
<td>Point 45 IIA BLM*</td>
<td>Application of the Union legislation</td>
<td>Annual</td>
<td>The Commission prepares reports on monitoring the application of EU law annually (e.g. 2015, 2016, 2017).</td>
</tr>
</tbody>
</table>

Data source: the Treaties and publicly available information.
### Table 15 – Treaty-based obligations to inform

<table>
<thead>
<tr>
<th>Informing provision</th>
<th>Main subject</th>
<th>Frequency</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 156 TFEU</td>
<td>Cooperation between Member States in the field of social policy</td>
<td>Not specified</td>
<td>No data available.</td>
</tr>
<tr>
<td>Article 168 (2) TFEU</td>
<td>Cooperation between Member States in the field of public health</td>
<td>Not specified</td>
<td>No data available.</td>
</tr>
<tr>
<td>Article 173 (2) TFEU</td>
<td>Cooperation between Member States in the field of industry</td>
<td>Not specified</td>
<td>No data available.</td>
</tr>
<tr>
<td>Article 181 TFEU</td>
<td>Cooperation between Member States in the field of research and technological development</td>
<td>Not specified</td>
<td>No data available.</td>
</tr>
<tr>
<td>Article 215 (1) TFEU</td>
<td>Interruption or reduction of economic and financial relations with third countries</td>
<td>Not specified</td>
<td>No data available.</td>
</tr>
<tr>
<td>Article 225 TFEU</td>
<td>The Commission should submit an appropriate proposal</td>
<td>On Parliament’s request</td>
<td>See Section 2.8.2.</td>
</tr>
<tr>
<td>Point 10 IIA BLM*</td>
<td>The Commission should submit an appropriate proposal</td>
<td>Within three months</td>
<td>See Section 2.8.2.</td>
</tr>
<tr>
<td>Point 16 FA**</td>
<td>The Commission should submit an appropriate proposal</td>
<td>Within three months</td>
<td>See Section 2.8.2.</td>
</tr>
<tr>
<td>Article 328 TFEU</td>
<td>Enhanced cooperation</td>
<td>Regular</td>
<td>The Commission consults Parliament regarding enhanced cooperation.118</td>
</tr>
<tr>
<td>Point 9 IIA BLM*</td>
<td>Withdrawal of legislative proposal by the Commission</td>
<td>Always when withdrawing a proposal</td>
<td>The Commission announces withdrawal of pending legislative proposals in its CWP.119</td>
</tr>
<tr>
<td>Point 13 IIA BLM*</td>
<td>Quality check of the Commission’s impact assessment by the Regulatory Scrutiny Board</td>
<td>Always when quality check is carried out</td>
<td>Opinions of the RSB are published on the Commission’s webpages (impact assessments and evaluations and fitness checks).</td>
</tr>
<tr>
<td>Point 19 IIA BLM*</td>
<td>Results of public consultations</td>
<td>Without delay, whenever a consultation is carried out</td>
<td>Public consultations and their results are published on the Commission’s webpage (consultations). They are also delivered to Parliament.</td>
</tr>
</tbody>
</table>

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## Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

### Table 16 – Treaty-based obligations to consult

<table>
<thead>
<tr>
<th>Informing provision</th>
<th>Main subject</th>
<th>Frequency</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 36 TEU</td>
<td>Consultations of the High Representative on the main aspects of the CFSP and the CSDP</td>
<td>Regular</td>
<td>See sub-chapter 2.10.2.</td>
</tr>
<tr>
<td>Article 295 TFEU</td>
<td>Interinstitutional agreement between Parliament, the Council and the Commission</td>
<td>Not specified</td>
<td>The interinstitutional agreement was adopted in 2016.</td>
</tr>
<tr>
<td>Point 6 IIA BLM*</td>
<td>Commission’s annual work programme</td>
<td>Annual</td>
<td>There is an annual dialogue between the Commission and Parliament concerning the CWP. See Section 2.8.1.</td>
</tr>
<tr>
<td>Point 11 IIA BLM*</td>
<td>Commission’s annual work programme</td>
<td>Regular</td>
<td>See Section 2.8.1.</td>
</tr>
</tbody>
</table>

Data source: the Treaties and publicly available information.

Although several publications cover the review clauses included in the secondary EU legislation or in international agreements concluded by the EU,\textsuperscript{120} there seems to be no publication that would, on a rolling basis, comprehensively assesses the Commission’s compliance with its reporting, informing and consulting obligations included in the Treaties.

2.5.3. Summary

Based on the available data, it does not seem that the Commission is ignoring or disregarding its reporting, informing or consulting obligations based on the Treaties. Since there are numerous legislative reporting provisions (many also included in secondary EU law), however, it is impossible to say whether or not the Commission provides all required information precisely within the statutory deadline. As the Commission may opt to merge several reporting obligations into one report it is often unclear whether a particular obligation was fulfilled, and if so, in which document. Parliament could probably address the Commission on this issue and request that it be as specific as possible in its reporting obligations.

Furthermore, a distinction is required between a formal reaction/answer given by the European Commission, which can at times very formalistic, i.e. it follows a specific form and arrives within the deadline, but is unsatisfactory in content or political value. Judgement of this latter point must be made by the political authority – very often the relevant parliamentary committee. Parliament therefore needs to have appropriate follow-up procedures in place.

2.6. Budgetary powers

With regard to the EU budget, Parliament exercises a double function. On the one hand Parliament, together with the Council, establishes the EU budget, while on the other, it carries out budgetary control. Therefore, while Parliament and the Council are (the two arms of) the EU budgetary authority, Parliament is the discharge authority. Budgetary control – as a concept – further includes the control of implementation of the current budget and an ex-post control of past budgets (budgetary discharge).

Although Parliament’s control powers with regard to the EU budget are not limited to the Commission – for example, Parliament also grants discharge to other EU institutions (e.g. the Council) and the EU agencies – due to the focus of this study, the following sub-chapter only covers the Parliament’s control powers with regard to the European Commission.

2.6.1. Rules

2.6.1.1. Establishment of the budget

The parliamentary committee most active in the establishment of the EU budget is the Committee on Budgets (BUDG).

Parliament and the Council, acting together through budgetary co-decision, have the power to establish the entire EU annual budget. They form the EU’s budgetary authority within the scope of Article 314 TFEU, and decide on the proposal for a draft budget submitted by the Commission. This provision of the TFEU establishes a general procedure, its stages and deadlines. It also lays down the rules applicable if Parliament and Council cannot reach an agreement and a conciliation

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121 The Council’s position is only discussed where needed.

122 Parliament received this power in the 1970s. In 1970, Parliament was given the power to agree on ‘non-compulsory expenditure’, and in 1975 this was augmented to the power to reject the budget as whole. Non-compulsory expenditure was merged together with compulsory expenditure by the Lisbon Treaty. See the Treaty amending Certain Budgetary Provisions of the Treaties establishing the European Communities and of the Treaty establishing a Single Council and a Single Commission of the European Communities (OJ L 2, 2 January 1971) and Treaty amending Certain Financial Provisions of the Treaty establishing the European Communities and of the Treaty establishing a Single Council and a Single Commission of the European Communities (OJ L 359, 31 December 1977).
committee has to be established (Article 314(4) TFEU), and it confirms that a new draft budget has to be submitted by the Commission if the conciliation procedure fails (Article 314(6) TFEU).

Although the power to establish the EU budget does not belong among the Parliament’s control prerogatives per se, it can be used as a leverage over the Commission; not establishing a budget at the beginning of a financial year leads to limits to the monthly budgetary spending of a sum ‘equivalent to not more than one twelfth of the budget appropriations for the preceding financial year’ (Article 315 TFEU). This can naturally limit any substantive plans on spending.

In the event of unavoidable, exceptional or unforeseen circumstances, the Commission may propose ‘draft amending budgets’ amending the adopted budget for the current year. These amending budgets are generally subject to the same rules as the general budget.

Procedural rules are currently included in the ROP and in the Interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management (IIA 2013). The IIA 2013 should improve budgetary discipline, the functioning of the annual budgetary procedure, and budgetary cooperation. With regard to the budget, the IIA 2013 presents several specific rules in its Annex – Institutional cooperation during the budgetary procedure. For instance, it notes that a trilogue should be convened to discuss possible budgetary priorities for the coming financial year (point 2), as well as organisation of a trilogue to have an exchange of views on the draft budget (point 10). It also requests cooperation with regard to the establishment of the budget, the budgetary procedure including conciliation procedure, and amending budgets.

2.6.1.2. Implementation of the EU budget and discharge procedure

The Parliament’s role is not only linked with establishing the EU budget. It is also linked to assessment of its implementation. As soon as the EU budget is established, the European Commission is responsible for its implementation, in cooperation with the Member States (Article 317 TFEU). Various implementation methods are applied. Parliament has power of control over this implementation, i.e. it can scrutinise how the EU money has been spent by the European Commission. During this discharge procedure in recent years, Parliament has given final approval of the implementation of the EU budget for a specific year.

The sole parliamentary committee in charge of this kind of budgetary control responsibility is the Committee on Budgetary Control (CONT).

For the Parliament to carry out its oversight, the Commission is obliged to submit to Parliament and to the Council various documents annually, for example:

1. accounts of the preceding year relating to implementation of the budget,
2. a financial statement of the Union’s assets and liabilities,
3. an evaluation report (Article 318 TFEU),
4. annual management and performance reports, and

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123 These draft amending budgets are based on Regulation 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.

124 Interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management, 2013.

125 The implementation methods for example include: (1) shared management between Member States and the Commission; (2) direct management (tasks delegated to agencies); and (3) indirect management (tasks delegated to other entities such as the EIB). See for instance Implementation of the budget, Fact Sheets on the European Union, European Parliament, 2018.

126 Additional important documents that Parliament receives also include the Commission’s annual management and performance reports for the EU budget (e.g. Annual management and performance report 2017 or 2016), and annual activity reports of the authorising officer by delegation (e.g. Annual activity report 2017 or 2016). The Budgetary Control
Parliament can grant discharge to the Commission in respect of the implementation of the EU budget (Article 319 TFEU) while acting on a recommendation from the Council. Before discharge is granted, both Parliament and the Council examine various documents, including accounts, financial statements, the annual evaluation report submitted by the European Commission and the annual report by the Court of Auditors. Parliament may ask ‘to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems’. Parliament can also in this regard request the Commission provide any necessary information and observations relating to the execution of expenditure.

The Commission is obliged to ‘take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure’ (Article 319(3) TFEU). At Parliament’s request, the Commission has to report on the measures taken in light of its observations and comments.

Additional rules for budgetary procedures are included in Regulation 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union. The regulation establishes principles and rules that govern the implementation of the budget. In Articles 164-167, the regulation provides more specific rules for discharge procedure. Parliament grants discharge before 15 May of year n + 2 in respect of the implementation of the budget for year n. If this date cannot be met, discharge can be postponed and the Commission should be informed of the reasons for the postponement. Subsequently, the Commission has to make ‘every effort to take measures’ that would remove the obstacles to Parliament agreeing to give its discharge decision (Article 164). The regulation also notes the Commission’s obligation to ‘take all appropriate steps to act on the observations accompanying the European Parliament’s discharge decision’ (Article 166).

The ROP also include special provisions applicable to budget and budgetary control. Budgetary procedures are included in Rules 86-95. Rule 92a of the ROP requires that Parliament monitors the implementation of the EU’s annual budget. This task is entrusted to the committees responsible for the budget and budgetary control, (CONT and BUDG). The ROP also requires that Parliament, before its reading of the draft budget for the following financial year, considers the problems in the implementation of the current budget.

No real legal sanction is available if Parliament decides not to grant discharge to the Commission. While greater political pressure might be considered a sanction, withholding discharge does not halt the Commission’s work or impact on spending. It can, however, have an impact on the

(cont) committee also holds exchanges of views with the directors and, separately, with the Commissioners in this respect, and submits written questions.

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129 The regulation is not discussed here in further detail.


132 Parliament also grants discharge to other EU institutions. These discharge responsibilities are not discussed here. For more information see A. D’Alfonso, Discharge to the Council and European Council, EPRS, European Parliament, 2014.

133 A relevant example of the Council and Parliament’s decision to grant discharge here is Parliament’s refusal to grant discharge for the implementation of the Council’s budget in financial years 2009, 2010, 2011, 2012 and 2013. This decision was linked to a repeated lack of cooperation from the Council regarding the provision of information. The lack
establishment of the budget or provide a reason for a motion of censure. However, the Treaties do not expressly connect any specific sanctions with a Parliament refusal to grant a discharge. Nonetheless, there is a link between granting the discharge and closing the accounts.

2.6.2. Application of rules

The days when Parliament's only right in respect of the budget was to be informed of the Council's decisions on discharge concerning the Commission's implementation are long gone.\textsuperscript{134} Today, Parliament is a decisive player that can considerably influence the EU and its policies via the budget. Historically, Parliament possessed budgetary rights before it possessed any legislative powers,\textsuperscript{135} and Parliament's budgetary powers are often considered to be the driving force behind its development.\textsuperscript{136}

2.6.2.1. Political control and establishment of the budget

Parliament makes considerable impact on the functioning of the EU through its powers in the budgetary field. From a power perspective, and with regard to the final EU budget, Parliament's position might be considered stronger than that of the Council, as Parliament may in some circumstances have the last word and impose a budget against the Council's will.\textsuperscript{137}

The procedure establishing the EU budget can lead to two results: (1) approval of the budget; or (2) rejection of the budget and subsequent launch of a new budgetary procedure that may lead to application of the system of provisional twelfths.

Table 17 provides data on Parliament's approval rate of the EU budget with regard to financial years 2011-2019. The table provides data on the date of the decision and a procedural file, votes in plenary regarding the budget, and comments.

Table 17 – Parliament approval of the EU budget, financial years 2011-2019

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Date of decision and procedural file</th>
<th>Votes in plenary</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Against - 142</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Abstained - 78</td>
<td></td>
</tr>
<tr>
<td>2019</td>
<td>24 October 2018, 2018/2046(BUD)</td>
<td>For - 389</td>
<td>An agreement was not reached in budgetary conciliation. The Commission was required to submit a new draft budget.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Against - 158</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Abstained - 123</td>
<td></td>
</tr>
</tbody>
</table>

of discharge did not lead to any sanctions in these cases. Nonetheless Parliament's decision not to grant discharge was one of the reasons that led to the fall of the Santer Commission in 1999. For more information, see D'Alfonso A., Discharge to the Council and European Council, ERPS, European Parliament, 2014.

\textsuperscript{134} Between 1958 and 1970, Parliament, or the European Parliamentary Assembly, was supposed to be informed of the Council's discharge decisions. Between 1970 and 1975, Parliament could grant discharge together with the Council, and since 1975, Parliament is the only EU institution that grants discharge (based on the Council's recommendation).

\textsuperscript{135} Parliament originally enjoyed a merely advisory role in the legislative process. Since 1986 (the Single European Act), Parliament's legislative prerogatives have been extended.


\textsuperscript{137} The Parliament may adopt the budget even if the Council rejects the joint text approved in the conciliation committee. However a very high threshold is set – the majority of component Members and three-fifths of the votes cast. See Article 314 (7)d TFEU. This can occur therefore under highly theoretical and unlikely circumstances.
<table>
<thead>
<tr>
<th>Financial year</th>
<th>Date of decision and procedural file</th>
<th>Votes in plenary</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>22 October 2014, 2014/2040(BUD)</td>
<td>For - 464, Against - 186, Abstained - 46</td>
<td>An agreement was not reached in budgetary conciliation. The Commission was required to submit a new draft budget.</td>
</tr>
<tr>
<td>2013</td>
<td>23 October 2012, 2012/2092(BUD)</td>
<td>For - 492, Against - 123, Abstained - 82</td>
<td>An agreement was not reached in budgetary conciliation. The Commission was required to submit a new draft budget.</td>
</tr>
</tbody>
</table>
Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Date of decision and procedural file</th>
<th>Votes in plenary</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>20 October 2010, 2010/2001(BUD)</td>
<td>For - 546</td>
<td>An agreement was not reached in budgetary conciliation. The Commission was required to submit a new draft budget.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Against - 88</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Abstained - 39</td>
<td></td>
</tr>
</tbody>
</table>

Data Source: Legislative Observatory (OEIL), European Parliament.

Parliament's power to refuse to approve the budget is not overused.

Table 17 shows that, since 2010, Parliament has, together with the Council, established a budget on each occasion, and even established the budget before the end of the year, with 17 December the latest date of approval of the budget. Since 2009, Parliament has not once rejected the proposed budget, although it did refuse on two occasions in the distant past, in December 1979 and in December 1984.

The Conciliation Committee failed to reach an agreement on the EU budget on four occasions: in 2011, 2013, 2015 and 2018. In these four cases, the Commission had to present a new draft budget. The decisions on new draft budgets are designated by an asterisk (*) in the table.

2.6.2.2. Political control and discharge procedure

The responsibility for implementation of the EU budget lies with the European Commission. The discharge procedure is in fact ‘ex-post democratic oversight at political level of how the EU's budget has been used’. In practical terms, Parliament granting discharge to the Commission is the Parliament's way of expressing the level of satisfaction with the Commission's implementation of the EU budget. Within the annual discharge procedure, Parliament can make recommendations for improving financial management and implementation of the budget. The Parliament's decision on the discharge can nonetheless express Parliament's dissatisfaction with the implementation of the budget, as it can lead two possible results: (1) discharge is granted, or (2) discharge is refused.

Article 319 TFEU does not explicitly mention refusal to grant discharge. The Parliament's power is however considered as implicit. This is one of the reasons why refusal to grant discharge does not imply any legal consequences, but only (potentially) political ones.

When assessing the implementation of the budget, the CONT committee concentrates on verifying compliance with the relevant rules, as well as on performance, i.e. compliance with the principles of sound financial management. In addition to Parliament, two more institutions play an important role in the discharge procedure; the Council, providing Parliament with a (non-binding) recommendation, and the Court of Auditors in preparing both special reports (performance audits) and the annual report (financial audit) for the financial year under consideration.

Figure 2 illustrates a general timeline of the discharge procedure from the Parliament's perspective. It shows the actions that need to be carried out by the Commission, the Court of Auditors and Parliament.

140 Parliament can also postpone its decision but in the end it leads either to granting a discharge or its refusal.
141 Since 2015, these principles are included in the Commission's 'EU Budget focused on results' initiative. ibid.
Figure 2 - Present EU discharge procedure from the perspective of the European Parliament

Table 18 – Discharge granted to the Commission between 2009 and 2017

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Date of discharge and procedural file</th>
<th>Votes in plenary</th>
<th>Comments</th>
<th>Commission’s follow-up and replies to requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>26 March 2019, 2018/2166(DEC)</td>
<td>For - 449</td>
<td>Parliament e.g. calls on the Commission to provide accurate and complete information on the closure of the financial instruments for the 2007-2013 MFF (point 63, resolution with observations). Data not yet available.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Against - 152</td>
<td>For - 449</td>
<td>Against - 152</td>
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<td></td>
<td></td>
<td>Abstained - 26</td>
<td>For - 449</td>
<td>Against - 152</td>
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<td></td>
<td>For - 449</td>
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<td>Against - 152</td>
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<td>Abstained - 26</td>
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<td></td>
<td></td>
<td></td>
<td>For - 449</td>
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<td>Against - 152</td>
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<td></td>
<td>Abstained - 26</td>
</tr>
<tr>
<td>2016</td>
<td>18 April 2018, 2017/2136(DEC)</td>
<td>For - 426</td>
<td>Parliament e.g. calls for the alignment of the EU’s policy objectives and financial cycles, its own legislative period and the mandate of the Commission (point 1, resolution with observations). 17 July 2018 COM(2018) 545 final</td>
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<tr>
<td></td>
<td></td>
<td>Against - 255</td>
<td>For - 426</td>
<td>Against - 255</td>
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<td></td>
<td>Abstained - 12</td>
<td>For - 426</td>
<td>Against - 255</td>
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<td>For - 426</td>
<td>Against - 255</td>
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<td></td>
<td>For - 426</td>
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<td>Against - 255</td>
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<td>Abstained - 12</td>
</tr>
<tr>
<td>2015</td>
<td>27 April 2017, 2016/2151(DEC)</td>
<td>For - 466</td>
<td>Parliament e.g. notes a lack of synchronisation of the MFF (seven years) with the mandates of Parliament and the Commission (five years), which creates discrepancies between the budget for the financial year and its discharge (point 1, resolution with observations). 10 July 2017 COM(2017) 379 final 11 October 2017 Detailed replies</td>
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<td>Against - 173</td>
<td>For - 466</td>
<td>Against - 173</td>
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<td>Abstained - 11</td>
<td>For - 466</td>
<td>Against - 173</td>
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<td>For - 466</td>
<td>Against - 173</td>
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<td>For - 466</td>
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<td>Against - 173</td>
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<td>Abstained - 11</td>
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<tr>
<td>2014</td>
<td>28 April 2016, 2015/2154(DEC)</td>
<td>For - 504</td>
<td>Parliament e.g. regrets that the Commission’s answers to Parliament remain ambiguous in various respects (point 2, resolution with observations). 17 October 2016 COM(2016) 674 final 17 October 2016 Detailed replies</td>
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<tr>
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<td>Against - 114</td>
<td>For - 504</td>
<td>Against - 114</td>
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<td></td>
<td>Abstained - 3</td>
<td>For - 504</td>
<td>Against - 114</td>
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<td>For - 504</td>
<td>Against - 114</td>
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<td>For - 504</td>
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<td>Against - 114</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Abstained - 3</td>
</tr>
<tr>
<td>2013</td>
<td>29 April 2015, 2014/2075(DEC)</td>
<td>For - 513</td>
<td>Parliament e.g. calls on the Commission to take concrete steps to enable the necessary progress in sound financial management (point 47, resolution with observations). 8 October 2015 COM(2015) 505 final 8 October 2015 Detailed replies</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Against - 184</td>
<td>For - 513</td>
<td>Against - 184</td>
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<td></td>
<td>Abstained - 4</td>
<td>For - 513</td>
<td>Against - 184</td>
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<td>For - 513</td>
<td>Against - 184</td>
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<td>For - 513</td>
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<td>Against - 184</td>
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<td></td>
<td></td>
<td>Abstained - 4</td>
</tr>
</tbody>
</table>
### Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Date of discharge and procedural file</th>
<th>Votes in plenary</th>
<th>Comments</th>
<th>Commission’s follow-up and replies to requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>3 April 2014, 2013/2195(DEC)</td>
<td>For - 488, Against - 121, Abstained - 10</td>
<td>Parliament e.g. calls on the Commission to assume greater and more substantial responsibility for safeguarding the Union budget against financial losses (point 1, resolution with observations).</td>
<td>26 September 2014 COM(2014) 607 final, 26 September 2014 Detailed replies</td>
</tr>
<tr>
<td>2011</td>
<td>17 April 2013, 2012/2167(DEC)</td>
<td>For - 445, Against - 84, Abstained - 1</td>
<td>Parliament e.g. calls on the Commission to take priority actions dealing with the protection of EU budget, to deal with error rate in shared management or to enhance the use of performance audit (point 1, resolution with observations).</td>
<td>26 September 2013 COM(2013) 668 final, 26 September 2013 Detailed replies</td>
</tr>
<tr>
<td>2010</td>
<td>10 May 2012, 2011/2201(DEC)</td>
<td>For - 427, Against - 134, Abstained - 66</td>
<td>Parliament e.g. calls on the Commission to take priority actions including improvement and strengthening of the reliability of the accountability chain or reconsidering the increased use of pre-financing (point 1, resolution with observations).</td>
<td>3 October 2012 COM(2012) 585 final, 3 October 2012 Detailed replies</td>
</tr>
<tr>
<td>2009</td>
<td>10 May 2011, 2010/2142(DEC)</td>
<td>For - 570, Against - 75, Abstained - 13</td>
<td>Parliament e.g. notes that the annual accounts of the Union present fairly the financial position of the Union as of 31 December 2009 and the results of operations and cash flows though it depletes that the Commission delivered its opinions belatedly (points 1 and 2, resolution with observations).</td>
<td>14 November 2011 COM(2011) 736 final, 14 November 2011 Detailed replies</td>
</tr>
<tr>
<td>2008</td>
<td>5 May 2010, 2009/2068(DEC)</td>
<td>For - 550, Against - 48, Abstained - 39</td>
<td>Parliament e.g. remains concerned about problems accumulated from the previous Commission, such as high rates of error in payments or slowness in recoveries of undue payments (point 1, resolution with observations).</td>
<td>18 November 2010 COM(2010) 650 final, 18 November 2010 Detailed replies</td>
</tr>
</tbody>
</table>

Data Source: Legislative Observatory (OEIL), European Parliament.

Since 2009, Parliament has not refused to grant discharge to the European Commission (although this has been the case for other institutions or bodies). Neither was discharge postponed.\(^{142}\) Nonetheless, among the Members, the lowest support expressed for discharge was in April 2018 with regards to financial year 2016. However, discharge was eventually granted in this case.

Prior to a decision on discharge, a debate is always held in the plenary where the Members can discuss the documents provided by the Commission with regard to the discharge and provide the Commission with respective political messages. These documents are also voted and discussed in the Budgetary Control Committee (CONT) that prepares its report. The CONT report can point to

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\(^{142}\) However, examples exist of Parliament postponing discharge in the past. For example, the 1990 discharge was postponed so that the Commission could provide additional information; the 1996 discharge was postponed for the Commission to meet certain conditions; and the discharges of 1980 and 1985 were postponed to amend some documents on which the decision was to be based. See A. D’Alfonso, Discharge procedure for the EU budget, EPRS, European Parliament, 2016, p. 9.
possible fraud or irregular spending, as well as to control or anti-corruption policies in Member States. Reports usually include various requests and demands for Commission action.

All the above-mentioned Parliament decisions on granting discharge include recommendations to the Commission, known either as priority actions, measures to be taken or recommendations for the future. The Commission, as required by the Treaty, is supposed to take appropriate steps on these observations.

Based on the study of the Commission's follow-up documents, in general terms the Commission presents the Treaty-required documents on time and expresses its commitment to implement the majority or the main requests made by Parliament and apply them in the subsequent budgetary procedures. In the case of special requests made by Parliament, the Commission provides extensive detailed replies.

2.6.3. Summary

Approval of the EU budget and a decision to grant discharge are important tools in the hands of Parliament and if used properly can be used to considerably influence EU policies. Although these prerogatives are partially shared with the Council, they – at least the discharge procedure – can be considered alongside Parliament's other control prerogatives over the Commission. Nevertheless, despite providing Parliament with control competences, the discharge procedure is bound to one specific aspect, i.e. the implementation of the past budget. This can theoretically mean that even if Parliament is not satisfied with the implementation of the past budget, the Commission actually responsible for implementation of this budget is no longer ‘in power’. This limits Parliament to voicing recommendations for a new Commission and assessing the implementation of the following budget.

Parliament always opts for numerous recommendations in its discharge decision. The Commission tries to address them in its follow-up to the decision and in its actions. However, since 2009, Parliament has not used (has not had to use) its power to refuse to grant discharge (never actually used), or to postpone discharge (not used since 1996). This naturally opens the question of possible sanctions if Parliament has decided not to grant a discharge. No particular sanction is presumed by the Treaties for not granting discharge. While not granting discharge may be considered as a sanction in itself, this does not necessarily need to lead to the fall of the Commission.

Furthermore, Parliament’s power to establish the EU budget is not per se a prerogative leading to political control of the Commission, despite the possibility to use this power as a leverage to reach specific goals. However, it is difficult to evaluate this power, as since 2009, Parliament has always approved the budget before the end of a financial year and thus an application of a system of provisional twelfths has not been applied.

In general terms, Parliament’s Treaty based control competences in the budgetary procedure are used correctly, and the Commission complies with its obligations. However, one of the most challenging issues in the EU’s public finances (and that might be found outside the EU institutional framework, outside the budget and therefore outside Parliament’s budgetary control competence), is a growth in extra-budgetary financial tools addressing various crises that do not necessarily allow for Parliament’s democratic scrutiny.

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143 It is questionable whether postponement of discharge was the sole reason of the fall of the 1996 Santer Commission.
144 For example, the European Stability Mechanism, or the Facility for Refugees in Turkey. See The budgetary tools for financing the EU external policy, Directorate General for Internal Policies, European Parliament, 2017 or A. Zygierewicz, European Stability Mechanism, EPRS, European Parliament, 2017.
2.7. Legislative procedure

As a co-legislator, Parliament naturally takes part in EU legislative processes, whether through participation in an ordinary legislative procedure or a special legislative procedure (e.g. consultation or consent procedures). As this area belongs among the Parliament’s (and the Council’s) unique prerogatives, it might raise the question as to whether Parliament exercises its political scrutiny of the Commission in this area.

Although not apparent, Parliament can use its control/scrutiny prerogatives in the legislative field at least with regard to: (1) the Commission’s annual legislative work programme (CWP); and (2) its own power to request the Commission to submit a legislative proposal. In several areas, the TFEU requires that the Commission provide Parliament with information, or even reports, linked with legislative proceedings or delegated acts (these points are however noted in the previous sub-chapters).

2.7.1. Commission annual legislative work programme and Parliament

Regarding the Commission annual work programme (CWP), the Commission has several obligations towards Parliament. Based on Article 17(1) TEU, the Commission initiates the Union’s annual and multiannual programming with a view to achieving interinstitutional agreements.

Furthermore, at the beginning of each year, the Commission has to send Parliament a report that includes the ‘work programme for the current year’ (Article 190 TFEU). For the last couple of years, the CWP was presented by the Commission during the second October plenary session by its President or its Vice-President. Presentation of the CWP is linked with the ability of the Commission to make statements before Parliament. According to Rule 123 ROP, Members of the Commission can ask the President of Parliament for permission to make a statement. A full debate or a series of questions from Members can follow such statement. This happens regularly regarding the CWP.

Specific rules for annual programming and the CWP are included in the IIA BLM (points 6-11), and in the ROP (Rule 118a and Rule 37). The IIA BLM requires a dialogue between the Commission, Parliament and the Council and sets the requirements applicable to an annual work programme before its adoption and after it is adopted. It also sets out specific issues that need to be included in the CWP.

Before the Commission adopts and presents its annual work programme, the IIA BLM requires several steps: (1) An early exchange of bilateral views on initiatives between the Commission and Parliament has to take place; (2) This is followed by a written contribution from the President of the Commission describing the main ‘items of major political importance for the following year’ – letter of intent, addressed to the President of Parliament; (3) On the basis of this letter of intent, following the debate on the State of the Union; and (4) the Commission, the Council and Parliament should hold an additional exchange of views.

Following the adoption of the CWP, (5) a further exchange of views has to take place, and the three institutions should agree on (6) a joint declaration on annual interinstitutional...
programming. Implementation of the joint declaration has to be monitored regularly by all three institutions.

The CWP should include major legislative and non-legislative proposals for the following year, including repeals, recasts, simplifications and withdrawals. It is considered to be ‘the Commission’s contribution to the Union's annual and multiannual programming’ (point 53 FA 2010).

With regard to the CWP, the Commission is also obliged to provide regular updates on its planning and give reasons for any delay in the presentation of the proposals included therein. The Commission should also report to Parliament on the CWP's implementation.

Annual legislative programming is covered by the ROP. Rule 37\textsuperscript{148} reiterates the cooperation between Parliament and the Commission in preparing the CWP, while it clearly notes that before negotiating with the Council and the Commission on a joint declaration, the President of Parliament has to exchange views with the COP and the CCC regarding Parliament’s priorities and objectives. The President also forwards any resolution adopted by Parliament concerning legislative planning and priorities to the Commission. A reference to multiannual programming is made in Rule 118a\textsuperscript{149} that requires that the newly appointed Commission, Parliament and the Council exchange views and agree on joint conclusions for multiannual programming. Any such exchange of views should be preceded by the President’s exchange of views with the COP.

The provisions of the FA 2010 provide a clear obligation on the Commission to present its CWP to Parliament (point 34 FA). Furthermore, the FA’s 2010 Annex IV sets a timetable according to which the Commission and Parliament should cooperate.\textsuperscript{150} The FA 2010 requires that the Commission’s Vice-President responsible for institutional relations regularly reports to the CCC.

Table 19 presents the timetable, based on an analysis of the text of the FA 2010 with regard to the Commission work programme and the Commission’s and Parliament's actions linked thereto.

Table 19 – Timetable for the Commission work programme according to the Framework Agreement 2010

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>The first half of year</td>
<td>- regular dialogue between the Members of the Commission and the corresponding parliamentary committee</td>
</tr>
<tr>
<td></td>
<td>- report to the CCC on the outcome of the dialogue by the respective committee</td>
</tr>
<tr>
<td></td>
<td>- regular exchange of views between the CCC and the Commission’s Vice-President</td>
</tr>
<tr>
<td>June</td>
<td>- summary report submitted by the CCC to the COP, containing the results of the screening of implementation of the CWP, Parliament’s priorities for the upcoming CWP, and taking stock of results of ongoing bilateral dialogue with the Commission</td>
</tr>
<tr>
<td>July part-session</td>
<td>- Parliament resolution outlining its position on legislative priorities</td>
</tr>
<tr>
<td>September first part-session</td>
<td>- State of Union address and debate in Parliament while Commission prepares 'main elements guiding the preparation' of the CWP in writing</td>
</tr>
</tbody>
</table>


\textsuperscript{150} Point 10 of Annex IV, FA 2010 notes that the timetable does not prejudice any future agreement on interinstitutional programming.
Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

| Start of September | - detailed exchange of views on future priorities in each policy area between the Members of the Commission and the corresponding parliamentary committee
|                    | - subsequent meeting between the CCC and the College of Commissioners and if appropriate between the COP and the President of the Commission
| October            | - adoption of the CWP for the following year and presentation of the CWP (by the Commission President or the Vice-President)
| December part-session | - debate and subsequent Parliament resolution


The IIA BLM obliged the Commission’s President to inform Parliament about ‘items of major political importance for the following year’. Since then, the President of the Commission has presented these intentions while addressing the plenary on their view of the state of the Union. This practice existed even before the adoption of the IIA BLM (see Table 21). A letter, in which the President of the Commission informed the President of Parliament about its legislative intentions, has been sent at least since 2010, usually in September before the presentation of the CWP in the Parliament plenary session. In comparing the content of the letter of intent and the Parliament’s resolution on the CWP, it can be observed that a majority of Parliament’s requests have indeed been included in the letter of intent.

151 In 2014, after the European Parliament elections and the election of the President of the Commission, such a letter was sent two months later (in November 2014). The CWP presentation also took place later, in December 2014.

152 If such a resolution is adopted. Since 2016, when the IIA entered into force, Parliament has only once adopted a resolution on strategic priorities for the Commission work programme (with regards to the CWP 2017).
### Table 20 – Commission work programme and subsequent actions

<table>
<thead>
<tr>
<th>Year</th>
<th>Resolution of Parliament</th>
<th>Letter of intent</th>
<th>'State of the Union' address</th>
<th>Presentation of the CWP in plenary</th>
<th>Joint declaration</th>
</tr>
</thead>
<tbody>
<tr>
<td>CWP 2015</td>
<td>Proposal for resolution rejected on 15 January 2015 (PE545.687v01-00)</td>
<td>12 November 2014</td>
<td>No speech given</td>
<td>16 December 2014, 2014/2829(RSP)</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

**Data Source:** Legislative Observatory (OEL), European Parliament.

Since 2016, when the IIA BLM provisions entered into force, the Commission (the President or the First Vice-President) submits a letter of intent to Parliament. It seems that Parliament, the Council and the Commission participate in a dialogue before and after the adoption of the CWP. A joint declaration on annual interinstitutional programming, currently known as the **joint declaration on the EU’s legislative priorities**, is yet another step forward. The joint declaration identifies files

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153 Despite these resolutions (adopted or not), various Parliament requests can be seen to have been taken on board in the CWP.

154 Based on the text of the joint declaration on the EU’s legislative priorities for 2018 to 2019 it can be assumed that this joint declaration is applicable until the 2019 European elections.

155 Prior to December 2016 there were none ‘joint declarations of Parliament, the Council and the Commission’ that would set legislative priorities for the upcoming year(s). See for example, press release, European Parliament, 13 December 2016.

156 It seems that due to the European elections in 2014 and a subsequent change of the Commission, no speech on the state of Union was given (Neither by then President Barroso nor President-elect Juncker). However, on 15 July 2014, then President-elect Juncker presented his ‘Political guidelines for the next European Commission’ to the Parliament plenary session, and on 22 October 2014 he made a speech in plenary ahead of the vote on the College.
which should receive priority treatment without prejudice to the co-legislators’ powers under the
Treaties. Joint declarations represent the commitment of the three institutions ‘to agree each year
on a number of priority proposals, on which they want to ensure substantial progress’. The first such
declaration was adopted in December 2016. The implementation of the joint declaration is
monitored regularly at technical level and also at the level of the three Presidents, which involves
consultation of the CCC and CoP (Rule 37 ROP).157 No special joint declaration was adopted for the
years 2019 to 2020 after the presentation of and debate on the CWP 2019. It is possible to assume
that the 2018 to 2019 joint declaration was intended to be applicable all the way through to the
European elections in May 2019, as it noted that ‘with around 18 months until the next European
elections, a central democratic moment for voters to assess the effectiveness of the Union, now is
the time to show that Europe can deliver for its citizens when and where it matters’.158 In addition,
the Commission promised not to submit any new legislative proposals after May 2018,159 in order to
give Parliament enough time to complete the legislative work before the 2019 European
elections.160

Parliament usually reacts to the Commission’s legislative planning in its resolution on the CWP or on
legislative priorities. Since 2010, there have been just two occasions when it has not done so (in 2017
and in 2015).

2.7.2. Procedure under Article 225 TFEU

According to Article 225 TFEU,161 the Parliament, when acting by a majority of its component
Members,162 may request that the Commission submit ‘any appropriate proposal on matters on
which it considers that a Union act is required for the purpose of implementing the Treaties’. The
wording of the Treaty leaves the Commission with two options: (1) submit, within the legislative
procedure, the requested legislative proposal; or (2) decide not to submit such a proposal and
inform Parliament of its reasons.

Furthermore, point 10 IIA BLM requires the Commission to give ‘prompt and detailed consideration
to requests for proposals for Union acts’ made by Parliament. In this case, the Commission should
reply to these requests within three months, while it should also adopt a specific communication
explaining the intended follow-up. Furthermore, if the Commission decides not to submit a
proposal, it needs to provide detailed reasons for its decision and, where appropriate, also an
analysis of possible alternatives. It should also reply to issues raised by Parliament concerning
European added value and the cost of non-Europe. In addition, the Commission has to present its
reply in the European Parliament or in the Council, if so requested.

Furthermore, point 16 FA 2010 also clarifies that the Commission should come forward with a
legislative proposal (based on Parliament’s request) at the latest after one year, or it should include
this proposal in its next annual CWP.

158 Joint Declaration on the EU’s legislative priorities for 2018-19, p. 1, 2018
159 Nevertheless, according to information contained in the Eur-lex database, between May 2018 and May 2019 the
Commission submitted approximately 50 additional legislative proposals for a directive or a regulation to the co-
legislators. Only a small number of the proposals were linked with the United Kingdom’s intention to withdraw from
the EU.
160 Commission Work Programme 2018: An agenda for a more united, stronger and more democratic Europe, (COM(2017)
650 final), p. 2.
161 Although the procedure according to Article 241 TFEU is to some extent similar to the Article 225 TFEU procedure, it is
not discussed here as it covers exclusively the relation between the Council and the Commission.
162 Currently 376 Members. With the expected withdrawal from the EU of the UK, this number will decrease to 353.
Rule 46 ROP\textsuperscript{163} sets specific procedural rules for requesting that the Commission submit a legislative proposal amending an existing act or leading to a new legislative act. Parliament does this via a resolution (on the basis of an own-initiative report), adopted by a majority of its component Members.

A proposal for a Union act on the basis of Article 225 TFEU can be tabled by any Member but, it can also be tabled jointly by up to 10 Members. It has to include the legal basis and can contain an explanatory statement of a maximum of 150 words. The President of Parliament, to whom such a proposal should be submitted, can refer it to the committee responsible for an opinion. The proposal is announced in the plenary and referred to the committee responsible, if the President declares it admissible. The proposal has to be translated into those official EU languages that are considered necessary in order for a summary consideration to be possible. The committee responsible should then take its decision within three months of the referral, while the authors of the proposal can address the committee. According to this rule, the CCC has to monitor whether the Commission fulfils its obligations according to point 10 IIA BLM regularly. The CCC has to report to the COP regularly.

In cases where Parliament adopts an own-initiative legislative resolution requesting the Commission submit a legislative proposal, the Commission should reply to Parliament and explain the reasons for its decision. In practice, in the majority of cases the Commission does not follow the Parliament’s request. However, in the vast majority of cases, the Commission provided an explanation as to why it did not proceed with the proposal. Only on a few occasions has the Commission followed-up (more or less) on the Parliament’s requests.

Table 21 shows cases in which plenary decided to request the Commission submit a proposal pursuant to Article 225 TFEU between 2010 and 2019. The table also provides an observation of the result and refers to the Commission’s follow-up to the Parliament’s resolution/decision. The following table does not however include legislative own-initiative reports that were submitted with regard to decisions (or legal acts) to be adopted uniquely by the Council or proposals for regulation according to Article 226 TFEU concerning the Parliament’s right of inquiry.\textsuperscript{164}

<table>
<thead>
<tr>
<th>Legislative own-initiative report (INL)</th>
<th>Adoption in plenary</th>
<th>Votes</th>
<th>Legislative proposal</th>
<th>The Commission’s response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Humanitarian visas \textsuperscript{2018/2271(INL)}</td>
<td>11 December 2018</td>
<td>For - 429 Against - 194 Abstained - 41</td>
<td>Data not available</td>
<td>Data not available</td>
</tr>
<tr>
<td>Expedited settlement of commercial disputes \textsuperscript{2018/2079(INL)}</td>
<td>13 December 2018</td>
<td>For - 521 Against - 35 Abstained - 14</td>
<td>No</td>
<td>The Commission responds (11 March 2019, SP(2019)129) that at this stage it does not seem appropriate to engage in preparatory action concerning the establishment of a European Commercial Court.</td>
</tr>
</tbody>
</table>


\textsuperscript{164} The following legislative initiative procedures (INL) were not included in the table: European Parliament’s right of inquiry \textsuperscript{2009/2212(INL)}, Jurisdictional system for patent disputes \textsuperscript{2011/2176(INL)}, Composition of the European Parliament with a view to the 2014 elections \textsuperscript{2012/2309(INL)}, Improving the practical arrangements for the holding of the European elections in 2014 \textsuperscript{2013/2102(INL)}, Reform of the electoral law of the European Union \textsuperscript{2015/2035(INL)} and Composition of the European Parliament \textsuperscript{2017/2054(INL)}, Reform of Statute of the European Ombudsman \textsuperscript{2018/2080(INL)}, proposal for a Council decision concerning Hungary \textsuperscript{2017/2131(INL)}, Humanitarian visas (rejected) \textsuperscript{2017/2270(INL)}. 
<table>
<thead>
<tr>
<th>Legislative own-initiative report (INL)</th>
<th>Adoption in plenary</th>
<th>Votes</th>
<th>Legislative proposal</th>
<th>The Commission's response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statute for social and solidarity-based enterprises 2016/2237(INL)</td>
<td>5 July 2018</td>
<td>For - 398, Against - 78, Abstained - 44</td>
<td>No</td>
<td>The Commission responds (8 November 2018, SP(2018)630) that it has already undertaken number of initiatives and programmes linked with social enterprises. In some cases, the Commission does not share the same opinion as Parliament.</td>
</tr>
<tr>
<td>Odometer manipulation in motor vehicles: revision of the EU legal framework 2017/2064(INL)</td>
<td>31 May 2018</td>
<td>For - 577, Against - 32, Abstained - 19</td>
<td>No</td>
<td>The Commission responds (26 September 2018, SP(2018)516) that it will study further possible solutions and review the relevant international standards, though it notes that the Parliament’s recommendations are sufficiently covered by the existing legislation.</td>
</tr>
<tr>
<td>Common minimum standards of civil procedures 2015/2084(INL)</td>
<td>4 July 2017</td>
<td>For - 545, Against - 79, Abstained - 71</td>
<td>No</td>
<td>The Commission responds (16 October 2017, SP(2017)539) that the EU civil justice instruments already contain civil procedure rules. It notes that if further action is needed it intends to take the proposal into account.</td>
</tr>
<tr>
<td>Limitation periods for traffic accidents 2015/2087(INL)</td>
<td>4 July 2017</td>
<td>For - 558, Against - 69, Abstained - 73</td>
<td>No</td>
<td>The Commission notes (6 October 2017, SP(2017)540) that harmonisation of national limitation periods could not be limited to traffic accident cases in isolation and should be addressed in a future report on application of the Rome II Regulation.</td>
</tr>
<tr>
<td>Protection of vulnerable adults 2015/2085(INL)</td>
<td>1 June 2017</td>
<td>For - 539, Against - 23, Abstained - 72</td>
<td>No</td>
<td>The Commission responds (30 August 2017, SP(2017)510) that a legislative initiative would produce desired effects only when a sufficient number of MS have joined the 2000 Hague Convention on international protection of adults.</td>
</tr>
<tr>
<td>Cross-border aspects of adoptions 2015/2086(INL)</td>
<td>2 February 2017</td>
<td>For - 533, Against - 41, Abstained - 72</td>
<td>No</td>
<td>The Commission responds (10 April 2017, SP(2017)188) that it is aware of the existing problems. It nevertheless points out that an initiative needs to be evidence-based and waits for results of a consultation.</td>
</tr>
<tr>
<td>Establishment of an EU mechanism on democracy, the rule of law and fundamental rights 2015/2254(INL)</td>
<td>25 October 2016</td>
<td>For - 405, Against - 171, Abstained - 39</td>
<td>Partial</td>
<td>The Commission notes (17 February 2017, SP(2017)16) the need to use the existing instruments. As regards the rule of law, on 2 May 2018, the Commission proposed a mechanism to protect the EU budget in case of deficiencies regarding the rule of law in a Member State.</td>
</tr>
<tr>
<td>Bringing transparency, coordination and convergence to corporate tax policies in the Union 2015/2010(INL)</td>
<td>16 December 2015</td>
<td>For - 500, Against - 122, Abstained - 81</td>
<td>Partial</td>
<td>The Commission responds (3 May 2016, SP(2016)120) that it addressed Parliament’s request by submitting a 2016 legislative proposal regarding on mandatory, public country-by-country reporting.</td>
</tr>
<tr>
<td>Legislative own-initiative report (INL)</td>
<td>Adoption in plenary</td>
<td>Votes</td>
<td>Legislative proposal</td>
<td>The Commission’s response</td>
</tr>
<tr>
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</tr>
<tr>
<td>Review of the European Arrest Warrant 2013/2109(INL)</td>
<td>27 February 2014</td>
<td>For - 500 Against - 122 Abstained - 81</td>
<td>No</td>
<td>Later, in 2018, the Commission proposed rules to ensure that digital business activities are taxed in a fair and growth-friendly way in the EU.</td>
</tr>
<tr>
<td>EU donor coordination on development aid (2013/2057(INL)</td>
<td>11 December 2013</td>
<td>Adopted by show of hands</td>
<td>No</td>
<td>The Commission notes (22 July 2014, SP(2014)447) that various legal measures were adopted in this field while the Commission will consider submitting proposals therein.</td>
</tr>
<tr>
<td>Parliament's rights in the appointment procedure of future Executive Directors of the European Environment Agency 2013/2089(INL)</td>
<td>11 September 2013</td>
<td>Adopted by show of hands</td>
<td>No</td>
<td>The Commission notes (11 March 2014, SP(2014)816) that at this stage it does not intend to put forward a legislative amendment.</td>
</tr>
<tr>
<td>Statute for a European mutual society 2012/2039(INL)</td>
<td>14 March 2013</td>
<td>Adopted by show of hands</td>
<td>No</td>
<td>The Commission replies (29 July 2013, SP(2013)442) that it intends to wait for results of consultation in order to address these issues. The first proposal was withdrawn in 2006. No new proposal has since been scheduled in the CWP.</td>
</tr>
<tr>
<td>Better governance for the single market 2012/2260(INL)</td>
<td>7 February 2013</td>
<td>For - 527 Against - 30 Abstained - 31</td>
<td>No</td>
<td>The Commission doubts (28 June 2013, SP(2013)304) whether Article 26(3) TFEU could be used as a legal basis to adopt a legislative act on the governance of the single market.</td>
</tr>
<tr>
<td>Towards a genuine Economic and Monetary Union 2012/2151(INL) (Follow up on 2010/2099(INL))</td>
<td>20 November 2012</td>
<td>For - 482 Against - 160 Abstained - 35</td>
<td>Yes</td>
<td>The Commission points (2 April 2013, SP(2013)1110) to proposals already submitted and notes its intention to submit further proposals in this field. In July 2013 (and thereafter) the Commission publishes the Banking Union proposals which include the Single Resolution Mechanism, the Single Supervisory Mechanism, the European Deposit Insurance Scheme (still in the legislative process) and a proposal on sovereign bond-backed securities.</td>
</tr>
</tbody>
</table>

165 The Legislative Observatory (OEIL) includes identical numbers and dates for this file and the file noted above.
As table 21 shows, Parliament's success in persuading the Commission to submit a legislative proposal based on its request has been rather limited. Of 26 cases mentioned above, the Commission followed up the Parliament's request to some extent with a proposal in only eight cases.

With regard to the implementation of point 10 of the 2010 Interinstitutional Agreement, a ‘Suites Données’ project team was set up in Parliament, with part of its work being to evaluate the implementation of the IIA BLM. The project team was led by DG PRES and consisted of representatives from DG IPOL, DG EXPO, DG EPRS and Parliament’s Legal Service. Its conclusions fed
into a wider monitoring report by Parliament's Secretariat, as a contribution to Parliament's further political work on the IIA BLM.166

The project team recommended that the monitoring of the Commission's follow-up to Parliament's resolutions under Article 225 TFEU should be carried out in two separate phases: (1) a 'quantitative and timing check' of the Commission's replies systematically carried out by DG PRES including its compliance with the three-month deadline and (2) 'qualitative and political check' of the replies. Here the responsibility for the quality control should lie with a competent parliamentary committee and within an agreed framework of the CCC, which is the body in charge of the regular monitoring of the Commission's compliance with point 10 of the IIA BLM (Rule 46 (6) ROP).

As regards the possibility to ask the Commission to present its reply in Parliament, the project team recommended a certain flexibility for the given parliamentary body (i.e. particular committee, CCC or plenary) to take a decision, depending on the political importance of the file. The project team also recommended a set of existing information documents be prepared on the topic, in particular, a regular, comprehensive note analysing the follow-up provided by the Commission services in accordance with point 16 of the Framework Agreement (DG PRES); a 'political work programme' (DG IPOL) and a 'rolling checklist' (DG EPRS).

It is still too early to fully evaluate the implementation of this provision, as only six follow-ups have been made to parliamentary resolutions adopted on the basis of Article 225 TFEU since the adoption of the IIA BLM in 2016. From a quantitative point of view, it seems the Commission has to date complied with the existing deadline of three months for replying to such requests as established in point 10 IIA BLM. The first responses received from the Commission provide a more detailed analysis of the Parliament's request and possible follow-up compared to its past replies.

2.7.3. Summary

The procedure for preparation of the Commission's work programme seems to be sufficiently directed at and discussed with Parliament. Parliament is, either at the level of the parliamentary committees, or at the level of the plenary or the President, involved at several stages in preparation of the CWP.

The adoption of the IIA BLM in 2016 allowed for far broader cooperation between Parliament, the Commission and the Council. The 'officialised' letter of intent by the President of the Commission and the joint declaration between the three institutions regarding the legislative priorities particularly enable Parliament to push through its interests after the CWP is adopted. This position is however slightly undermined by the fact that Parliament is often unable to reach the majority required for the adoption of a resolution on the legislative priorities that should be included in the CWP. This weakens the Parliament's position with regard to the CWP.167

In the last two years, Parliament's power increased with regard to the CWP, especially due to broader cooperation between the three EU institutions and via the joint declarations on annual interinstitutional programming. In order to use existing powers to their full extent, Parliament needs to try to reach a political agreement between its different political factions.


167 Within the last four years, Parliament has not been able to adopt such a resolution on two occasions.
According to the Treaties, Parliament does not traditionally have a right of legislative initiative.168 As such, it cannot compel the Commission to submit a legislative proposal. Although Parliament is not very successful as regards its requests under Article 225 TFEU, its last two requests have not yet been assessed by the Commission. This power nevertheless allows Parliament to scrutinise whether the Commission fulfils its role properly. From the Commission’s follow-up documents to the Parliament’s requests, it is evident that the Commission considers Parliament's requests seriously. Parliament’s requests can always lead to the submission of a ‘real’ legislative proposal. If that does not happen, they can at least provide a different view to that of the Commission.

Parliament would potentially gain if the application of Article 225 TFEU was more linked with the Parliament’s powers concerning the CWP. A combination of both would not only broaden Parliament’s application of its scrutiny powers but might also support greater clarity in legislative planning.

2.8. Delegated acts

A specific part of Parliament's control prerogatives, when taking the Treaties' provisions into account, is linked with the Parliament’s ability to scrutinise delegated acts – acts adopted by the Commission on the basis of a delegation granted in EU legislative acts. The conditions of powers delegated to the Commission are defined case-by-case by these legislative acts (basic legislative act).

Since the entry into force of the Lisbon Treaty in 2009, Parliament has concluded 335 legislative files with the Council that empower the Commission to adopt delegated acts.169 Of this number, in the eighth legislative term (to May 2019), the co-legislators adopted 118 legislative acts that empower the Commission to adopt a delegated act.170 The 335 above-mentioned legislative files include approximately 1 777 provisions empowering the Commission to adopt a delegated act.171 This however does not mean that the Commission will ultimately adopt 1 777 delegated acts, as in some cases measures under several provisions can be clustered into a single delegated act, whereas for certain provisions the Commission may adopt multiple delegated acts.172 This makes it difficult to estimate precisely the number of delegated acts that will be adopted by the Commission based on the Parliament’s

Delegated acts

- non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act,
- their objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts (Article 290 (1) TFEU).

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168 With the exception of proposals pursuant to Article 226 TFEU.
171 Of 1777 provisions empowering the Commission to adopt a delegated act, 465 are estimated to fall in the competence of the AGRI committee, 317 the ECON committee and 274 the ENVI committee. Overview of delegated and implementing acts in the Parliament, Directorate General for Internal Policies, European Parliament, May 2019, Table 1, p. 2.
172 This is, for instance, the case with the Financial Regulation (Regulation No 966/2012) that contained more than 100 provisions empowering the Commission, while most of them were included in one single delegated regulation (Commission Delegated Regulation (EU) No 1268/2012).
and Council’s delegation. Nonetheless, between 2010 and 2019 Parliament received 848 delegated acts.\textsuperscript{173}

As soon as Parliament has formally received a delegated act adopted by the Commission, it has the possibility to assess the act and to object to it if considered necessary. A delegated act can only enter into force if there has been no objection by Parliament or the Council within a period of usually two months (that can occasionally be prolonged). In addition, Parliament can also scrutinise the way the Commission uses the power delegated to it.

Table 22 shows the number of delegated acts received from the Commission per year between 2009 and 2019. As can be seen from the table, the number of delegated acts received by Parliament rose considerably in 2014 and, in the last four years (with the exception of 2019), it has remained higher than 100.

Table 22 – Delegated acts received by Parliament (2009 to 2019)

<table>
<thead>
<tr>
<th>Year</th>
<th>Delegated acts received by Parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>4</td>
</tr>
<tr>
<td>2011</td>
<td>7</td>
</tr>
<tr>
<td>2012</td>
<td>38</td>
</tr>
<tr>
<td>2013</td>
<td>57</td>
</tr>
<tr>
<td>2014</td>
<td>177</td>
</tr>
<tr>
<td>2015</td>
<td>106</td>
</tr>
<tr>
<td>2016</td>
<td>139</td>
</tr>
<tr>
<td>2017</td>
<td>130</td>
</tr>
<tr>
<td>2018</td>
<td>119</td>
</tr>
<tr>
<td>2019 (May 2019)</td>
<td>71</td>
</tr>
</tbody>
</table>


**2.8.1. Rules**

A legislative act may delegate the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act to the Commission. This definition of delegated acts is provided by Article 290(1) TFEU. Within the general rules applicable to delegated acts, the TFEU gives Parliament several powers that fit into the package of Parliament's scrutiny powers, especially (1) power to revoke delegation (Article 290 (2) a TFEU); and (2) power to object to the delegated act within a certain period (Article 290 (2) b TFEU). In both cases, Parliament needs to act by a majority of its component Members (i.e. 376 MEPs).\textsuperscript{174}

The general rules included in the TFEU (at least with regard to Parliament's involvement in scrutiny of delegated acts) are specified in the Interinstitutional Agreement on Better Law-Making 2016 and


\textsuperscript{174} With the expected withdrawal of the UK from the EU, this number will decrease to 353 out of 705. See P8_TA(2018)0029.
in the annexed **Common understanding on delegated acts**, setting out ‘the practical arrangements and agreed clarifications and preferences applicable to delegations of legislative power’ (Annex, point 1). Additionally, with regard to delegated acts ‘which are expected to have significant economic, environmental or social impacts’, the Commission should carry out impact assessments (IIA BLM, point 13).

The IIA BLM’s point 28 requires that Parliament receives all documents linked with the delegated act at the same time as Member States’ experts. Furthermore, Parliament’s experts have the right to systematically access the meetings of Commission expert groups during the preparation of delegated acts. In this context, Parliament should receive the planning for the following months and invitations for all experts’ meetings (Annex, point 11).

Delegated acts have to be officially transmitted by the Commission to Parliament and the Council. However, Annex, point 14 notes that they should not be transmitted between 22 December and 6 January or between 15 July and 20 August, unless they were adopted under the urgent procedure. The period for expressing objections shall start when **all** official language versions of the delegated act have been received by the European Parliament and the Council (Annex, point 15).

Parliament has to be fully informed about the possibility of a delegated act being adopted under the urgency procedure (Annex, point 21). However, even in the case of an urgency procedure Parliament can express its objection. When adoption of a delegated act is notified to the Parliament under the urgency procedure, the Commission is obliged to state its reasons for doing so (Annex, point 23).

Where the delegation of power is determined for a given period of time and tacitly extended for periods of an identical duration, Parliament and the Council can both oppose a tacit extension of delegation of power. This opposition has to be made no later than three months before the end of each determinate period (Annex, point 17). The same point also requires the Commission to draw up a report in respect of delegated power ‘not later than nine months before the end of each period.’

Additionally, Parliament’s procedural rules applicable to the delegated acts are included in Rule 105 ROP.175 Delegated acts received are announced to Parliament by its President. They are subsequently considered by the committee responsible, which can table a reasoned motion for a resolution objecting to the delegated act (105(3) ROP).

Apart from that, the ROP note Parliament’s possibilities to address recommendations to the Commission and to call on the Commission to submit a new delegated act that takes account of Parliament’s recommendations.

The above-mentioned rules are also partially supplemented by Regulation (EU) No 182/2011176 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers, although this regulation primarily deals with implementing and not delegated acts.

DG IPOL’s LEGI/CODE unit has also published a list of good practices based on procedures in committees: Good practices for scrutinising delegated acts; RPS measures; and implementing acts (2015). In July 2018 it also published an internal guide – Handbook on delegated and implementing acts.

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176 **Regulation No EU 182/2011**.
2.8.2. Application

Apart from approving a provision empowering the Commission to adopt a delegated act in a regulation or a directive when Parliament acts as co-legislator, Parliament has three main competences with regard to delegated acts. It can:

1. revoke a delegation of power,
2. object to a delegated act, including to a delegated act adopted under the urgency procedure, and
3. oppose the tacit renewal of a delegation of power.

2.8.2.1 Revocation of delegated power

Although it can revoke the delegation of power under a specific act at any time (Article 290, 2(a) TFEU), Parliament has never revoked a delegation. The situation is identical with regard to the Council, as it also has never revoked a delegation.

Furthermore, a provision exists that coordinates Parliament and the Council's approach regarding revocation of the Commission's delegated powers, however this provision has not yet been used.

2.8.2.2 Objection to a delegated act

Since 2009, Parliament has objected to a delegated act adopted by the Commission in 10 cases. In the case of the Council this has happened on three occasions. There is no formal coordination process in this regard, but the two institutions have an obligation to inform each other and to inform the Commission.

Objections to a delegated act were rejected in plenary in 15 cases and in three cases they were withdrawn. In 16 cases objections were rejected in the responsible Parliamentary committee and in four cases objections were withdrawn by the committee responsible.

Parliament extended the deadline for raising an objection to a delegated act 89 times (May 2019), while in 39 cases, Parliament has expressed early non-objections for delegated acts.

During the scrutiny phase, the CCC and the COP are regularly informed about relevant developments concerning adopted delegated acts so that the political authorities have a good overview regarding decisions that have been taken at the different stages of the procedure.

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177 Annex to IIA 2016 (Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts), point 28. This provision establishes a mutual obligation to share information between Parliament and the Council at the latest one month before taking a decision to revoke the delegation.


179 Annex to IIA 2016 (Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts), point 27.

180 In 10 cases the objections were rejected by the AGRI committee, in 3 by the ENVI committee, in 2 by the ITRE committee and in 1 case by the INTA committee. Overview of delegated and implementing acts in the Parliament, Directorate General for Internal Policies, European Parliament, May 2019, table on pp. 12-14.

2019, 62 delegated acts were scrutinised by the respective Parliamentary committee. In 13 cases the committees commenced their scrutiny activities in accordance with Rule 105 and in one case an objection procedure was initiated (Rule 105(3)).

Although there is currently only a limited number of examples in which Parliament objected to a Commission delegated act, it is possible, based on these examples, to postulate some general reasons for Parliament’s objections. These general reasons include, for instance:

1. blanket exemptions included in the delegated act,
2. flaws in the Commission’s methodology,
3. failure to comply with conditions laid down in a regulation or a directive,
4. incompatibility of the delegated act with the aim and content of a regulation or a directive on which it is based,
5. insufficient measures to protect stakeholders, and
6. exceeding the Commission’s mandate.

Table 23 shows 10 cases in which Parliament objected to delegated acts adopted by the Commission. The table also includes the procedure number, date of adoption of the Parliament’s decision, vote in plenary and general comments as to the reason for objecting to the delegated act.

Table 23 – Delegated acts Parliament has objected to (2009 to 2019)

<table>
<thead>
<tr>
<th>Delegated act</th>
<th>Procedure, decision date and vote</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission delegated regulation amending Annex II to Regulation (EU) No 515/2014 of the European Parliament and of the Council establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa</td>
<td>2018/2994(DEA) 27 March 2019 Not available</td>
<td>In resolution (P8_TA(2019)0312) Parliament objects to the delegated act, taking the view that the concept of ‘controlled centres' should not be funded unless and until it is properly defined in an appropriate legislative instrument – adopted by the co-legislators (letter D).</td>
</tr>
<tr>
<td>Commission delegated regulation amending Annex II to Regulation (EU) No 516/2014 of the European Parliament and of the Council establishing the Asylum, Migration and Integration Fund</td>
<td>2018/2996(DEA) 27 March 2019 For - 493 Against - 87 Abstained - 34</td>
<td>In resolution (P8_TA(2019)0311) Parliament also objects to the delegated act, taking the view that the concept of ‘controlled centres' should not be funded unless and until it is properly defined in an appropriate legislative instrument – adopted by the co-legislators (letter D).</td>
</tr>
<tr>
<td>Commission delegated regulation of 2 March 2018 amending Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea</td>
<td>2018/2614(DEA) 14 June 2018 For - 484 Against - 77 Abstained - 15</td>
<td>In resolution (P8_TA(2018)0265) Parliament objects to the act as, for example, the review and reporting clause of the proposed delegated act does not apply to the newly proposed zones and their management, thus rendering transparent evaluation of the effectiveness of the measures impossible (letter G).</td>
</tr>
<tr>
<td>Commission delegated regulation of 24 March 2017 amending Delegated Regulation (EU) 2016/1675</td>
<td>2017/2634(DEA)</td>
<td>In resolution (P8_TA(2017)0213) Parliament objects to the act as, for example, anti-money laundering and countering terrorist financing deficiencies may persist</td>
</tr>
</tbody>
</table>

182 See Annex 2a to K. Welle, Note to the Members of the Conference of Presidents, Office of the Secretary General, 9 April 2019 (D(2019) 13041).
<table>
<thead>
<tr>
<th>Delegated act</th>
<th>Procedure, decision date and vote</th>
<th>Comments</th>
</tr>
</thead>
</table>
For - 392  
Against - 80  
Abstained - 207 | as regards several aspects of Article 9(2) in certain third countries that are not included in the list of high-risk countries in the amending delegated regulation (letter A). |
19 January 2017  
For - 393  
Against - 68  
14 September 2016  
For - 602  
Against - 4  
Abstained - 12 | In resolution (P8_TA(2016)0347) Parliament, for example, objects to the act ‘as it contain[ed] flaws in the methodology for the calculation of future performance scenarios and does not therefore fulfil the requirement under Regulation (EU) No 1286/2014 to provide information which is accurate, fair, clear and not misleading’ (letter D). |
| Commission delegated regulation of 25 September 2015 supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for processed cereal-based food and baby food | 2015/2863(DEA)  
20 January 2015  
For - 393  
Against - 305  
Abstained - 12 | According to resolution (P8_TA(2016)0015), Parliament objects to the act on the grounds that the act for instance does not contain sufficient measures to protect infants and young children against obesity (point 2). |
20 May 2015  
For - 486  
Against - 164  
Abstained - 26 | In resolution (P8_TA(2015)0206), Parliament objects to the act on the grounds that ‘data relating to ethyl alcohol of agricultural origin ensures both transparency and knowledge as regards the evolution of the market’, and that is ‘extremely useful when it comes to international agreement negotiations and anti-dumping investigations’ (letters A and B). |
| Commission delegated directive of 30 January 2015 amending, for the purposes of adapting to technical progress, Annex III to Directive 2011/65/EU of the European Parliament and of the Council as regards an exemption for cadmium in illumination and display lighting applications | 2015/2651(DEA)  
20 May 2015  
For - 618  
Against - 33  
Abstained - 28 | In resolution (P8_TA(2015)0205), Parliament considers that the Commission delegated directive fails to comply with the conditions laid down in Article 5(1)(a) of Directive 2011/65/EU (point 3). |
2.8.2.3. Opposing the tacit renewal of a delegation of power

In addition to empowering the Commission to adopt delegated acts, the basic legislative act determines the time period for which this power is delegated to the Commission. The duration of empowerment can be given for: (1) an indefinite period; (2) a determinate period with tacit extension; and (3) a determinate period with no extension possible. Based on the statistics of the Parliament’s LEGI unit (former CODE unit), an indeterminate period was given in 36 cases, while a determinate period with tacit extension in 212 cases and a determinate duration with no extension in 42 cases (data until March 2019).

The reporting obligation for delegation of powers with a determinate duration (normally five years with tacit extension) is monitored by the Parliamentary committees. The LEGI unit publishes a table indicating all upcoming ‘tacit extensions’ and the corresponding reports expected from the Commission. While the reports sometimes come later than expected and often contain only standardised information, there does not seem to be a case known where the Commission has not submitted its report.

Up to May 2019, Parliament has not opposed the tacit renewal of a delegation of power to the Commission.

2.8.2.4. General practice

In general, it is common practice in many committees to invite a representative of the Commission to present and discuss draft delegated acts with the Parliamentary committee responsible, either regularly or in cases of specific upcoming acts. Some Parliamentary committees have regular scrutiny slots in their agendas (e.g. the ECON committee). The exact number of these exchanges is however not available. Also, Parliament has access to meetings of the Commission concerning preparation of delegated acts. This access has been simplified with adoption of the IIA BLM.

Parliament often discusses draft acts with the Commission in the respective Parliamentary committee. Where the Commission takes on board Parliament’s comments and suggestions before adopting the act, there is no need for triggering an objection.

With regard to delegated acts, the Commission fulfils its information obligations properly. All necessary documents such as draft acts, agendas on expert meetings, are transmitted via email to Parliament’s functional mailboxes at the same time as to the Member States’ experts, and are published in the Interinstitutional Register of Delegated Acts. Furthermore, most Parliamentary committees receive the planning of expert meetings by email into their functional mailbox. The

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183 The Interinstitutional Register of Delegated Acts was launched in December 2017.
expert group meetings and planned acts\textsuperscript{184} are also announced in the register and are thus accessible to the committees.

The urgency procedure is used only in exceptional cases. Based on the data received, in these rare cases, the committee secretariats are informed by their counterparts in the Commission before the act is adopted.

Before 2014, there were regular exchanges of letters between the CCC and the Commission about recurrent problems regarding delegated acts procedures, in which Parliament communicated its dissatisfaction to the Commission (e.g. letter from CCC Chair Klaus-Heiner Lehne (EPP, Germany) to Commission Vice-President Maroš Šefčovič of 25 February 2014). The adoption of the IIA BLM eliminated the need to raise these issues at political level. In case of problems, they could be solved by informal contacts, often involving the horizontal services, such as the Commission’s Secretariat-General or Parliament’s LEGI unit.

Occasionally, the Commission prepares an impact assessment with regard to a delegated act.\textsuperscript{185} A number of draft delegated acts are published on the Commission website for public consultation before their adoption.

### 2.8.3. Summary

Parliament can scrutinise the Commission with regard to delegated acts. However, even though Parliament can revoke a delegation of power, object to a delegated act adopted, or oppose the tacit renewal of a delegation of power, Parliament uses these ‘veto’ powers with discretion. Parliament has never revoked a delegation of power, nor has it opposed the tacit renewal of a delegation of power.

Parliament has nonetheless used its power to object to a delegated act adopted by the Commission. Despite the fact that Parliament has done so in only approximately two per cent of all received legislative files, Parliament uses its competences to control the Commission and its use of delegated acts.

The transparency of the delegated acts procedure and the exchange of information has been strengthened by the creation of the register. Ultimately, it is for Parliament (together with the Council) to decide whether it first of all agrees with the inclusion of a provision containing a delegation in the first place and secondly, it is for the competent Parliamentary committees to assess the quality of a delegated act and the need to address a recommendation to the Commission in this particular regard\textsuperscript{186}.

### 2.9. Legal proceedings

Parliament’s ability to constitute legal proceedings before the Court of Justice of the European Union (the Court of Justice) does not necessarily belong among its core prerogatives of political control of the Commission. However, based on the result of such a power of control, it can constitute

\textsuperscript{184} Expert Group meetings and planned acts.

\textsuperscript{185} For example, Commission delegated regulation amending Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for certain categories of assets held by insurance and reinsurance undertakings (infrastructure corporates) included a required impact assessment (SWD(2017)219).

\textsuperscript{186} Parliament has addressed the issue of delegated acts in several resolutions. For instance in an own-initiative resolution on follow-up on the delegation of legislative powers and control by Member States of the Commission’s exercise of implementing powers of 25 February 2014 (P7_TA(2014)0127) Parliament raised several criteria for the application of Articles 290 and 291 TFEU.
Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

a potential subsequent step for Parliament. As from a broad perspective, this represents the exercise of the Parliament’s scrutiny powers, it is included briefly in this study.

2.9.1. Rules

The TFEU allows Parliament, like the other EU institutions, to start legal proceedings before the Court of Justice against the Commission. Parliament can:

- institute legal proceedings before the Court of Justice against the Commission and ask the Court to review the legality of an act of the Commission, in accordance with Article 263 TFEU;
- institute court proceedings if the Commission fails to act in accordance with Article 265 TFEU;
- intervene in cases against the Commission instituted by other subjects (Article 40, Protocol 3 of the Statute of the Court of Justice of the European Union).

The procedural provisions related to referrals to the Court of Justice are included in Rule 141 of the Rules of Procedure. According to the rule Parliament ‘examines Union legislation, especially when adopted by Council alone, and its implementation, usually by the Commission, in order to ensure that the Treaties have been fully complied with’, especially if Parliament’s rights are concerned. In cases where a breach of law is suspected, the Committee on legal affairs (JURI) should report to Parliament. The JURI committee can in this regard hear the views of the committee responsible for a subject matter.

An action on behalf of Parliament against another institution (e.g. the Council or the Commission) is brought, in accordance with the JURI committee’s recommendation, by Parliament’s President (Rule 141(3) ROP). Nonetheless, Parliament may have the opportunity to rule against such action, by a majority of the votes cast. If the President brings an action contrary to the recommendation of the JURI committee, Parliament can reverse its President’s decision.

Observations and interventions in Court proceedings on behalf of Parliament, usually in order to defend the validity of Parliament’s own acts and decisions, and following a recommendation by the JURI committee, are also brought by the President. The President needs to inform the JURI committee if he/she intends to act contrary to its recommendation. If this happens, the case has to be referred to the COP. If the COP then decides that no observation or intervention should be made, the matter should be submitted to Parliament.

As required by the ROP, the JURI committee adopted Guidelines for the application of Rule 141 of the Rules of Procedure in 2015, including specific principles for application of this rule.

2.9.2. Application

Since 2009, there have been several cases in which Parliament introduced an application against the Commission or intervened in a pending case.

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Table 24 – Parliament’s applications against the Commission between 2009 and 2019

<table>
<thead>
<tr>
<th>Type of proceedings</th>
<th>Case name and number</th>
<th>Date and jurisdiction</th>
<th>Result of action</th>
<th>Main points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intervention regarding action for failure to act</td>
<td>T-521/14 - Sweden v Commission</td>
<td>Judgment of the General Court (Third Chamber) of 16 December 2015</td>
<td>Action granted</td>
<td>Failure of the Commission to adopt delegated act.</td>
</tr>
<tr>
<td>Intervention regarding action for annulment</td>
<td>T-837/16 - Sweden v Commission</td>
<td>Judgment of the General Court (Fifth Chamber) of 7 March 2019</td>
<td>Action granted</td>
<td>Failure of the Commission to conduct necessary analysis of alternative measures.</td>
</tr>
<tr>
<td>Action for annulment</td>
<td>C-286/14 - Parliament v Commission</td>
<td>Judgment of the Court (Fifth Chamber) of 17 March 2016</td>
<td>Action granted</td>
<td>The Commission exceeded the scope of empowerment.</td>
</tr>
<tr>
<td>Action for annulment</td>
<td>C-65/13 - Parliament v Commission</td>
<td>Judgment of the Court (Second Chamber) of 15 October 2014</td>
<td>Action dismissed</td>
<td>The Commission did not exceed its implementing power.</td>
</tr>
</tbody>
</table>

Data Source: Legal Service, European Parliament.

Parliament could also institute Court proceedings against the Commission, bring action for annulment, and action for failure to act before 2009. The following table includes the main data concerning the cases in which Parliament began Court proceedings before 2009.189

Table 25 – Parliament’s applications against the Commission before 2009

<table>
<thead>
<tr>
<th>Type of proceedings</th>
<th>Case name and number</th>
<th>Date and jurisdiction</th>
<th>Result of action</th>
<th>Main points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action for annulment</td>
<td>C-14/06 and C-295/06 - Parliament and Denmark v Commission</td>
<td>Judgment of the Court (Grand Chamber) of 1 April 2008</td>
<td>Action granted</td>
<td>The Commission exceeded its implementing power.</td>
</tr>
<tr>
<td>Action for annulment</td>
<td>C-403/05 - Parliament v Commission</td>
<td>Judgment of the Court (Grand Chamber) of 23 October 2007</td>
<td>Action granted</td>
<td>The Commission exceeded its implementing power.</td>
</tr>
</tbody>
</table>

189 Depending on the particular time period, the legal basis for such action is different. However, as this is not a historical study this specific information is not included.
2.9.3. Legal Service, European Parliament.

The above-mentioned cases show that legal proceedings instituted by Parliament against the Commission are both rare and rather limited.

Since 1991, there were nine cases in which Parliament began proceedings, and two cases in which it intervened in a pending case. The majority of cases were actions for annulment (eight). In five cases, the action was granted by the Court, while in three, the action was dismissed. In two cases there was no need for the Court to adjudicate.

Undoubtedly, taking a case to the Court of Justice can be an extreme consequence of Parliament’s actions taken after exercising its control prerogatives. Taking a case to the Court of Justice however involves some time before the judgment is given. According to the Court’s 2018 annual report, average duration of proceedings is approximately 20 months before General Court and 15.7 months before the Court of Justice. Nonetheless, the Court's decisions are final and can potentially lead to an annulment of the Commission’s decision or a statement that the Commission did not comply with its obligations to act. However Parliament should assess its other possibilities before resorting to the Court, such as for example, the right to object to a delegated act adopted by the Commission or the right to scrutiny of draft implementing acts.

2.10. External relations

With regard to external relations, the Council and the European Council have the responsibility to define and implement the common foreign and security policy rules and procedures (Article 42 TEU). The CFSP is put into effect by the High Representative of the Union for Foreign Affairs and Security Policy (the High Representative) and by Member States. Nonetheless, Parliament’s involvement in EU external policies exists and was strengthened by the Lisbon Treaty, as Article 218 TFEU envisages Parliament’s consent to international agreements and the right to be fully and immediately informed at all stages of the procedure for all international agreements. Furthermore,
the High Representative, who is ex officio a Vice-President of the Commission, has to consult Parliament on various topics, such as CFSP or CSDP, in accordance with Article 36 TEU.

Several Parliamentary committees are active in the field of external relations, for instance the Committee on Foreign Affairs (AFET), the Committee on International Trade (INTA), the Committee on Development (DEVE) and the Subcommittee on Human Rights (DROI) and the Subcommittee on Security and Defence (SEDE).191

Although the following points on international agreements and the High Representative are not always linked with the political scrutiny of the European Commission, for the sake of clarity and completeness they are discussed briefly below.

2.10.1. International agreements and Parliament’s scrutiny

Despite the fact that the majority of competences in the field of international agreements lie with the Council and the Commission, at certain stages Parliament cannot be overlooked and can greatly influence the adoption of such agreements. With the adoption of the Lisbon Treaty, Parliament gained the capacity to ‘ratify’ international agreements in various areas including trade, agriculture and internal security matters, by providing its consent to such agreements.192 This gives Parliament enormous leverage.

In the vast majority of cases, Parliament plays an active role linked with the approval of international agreements throughout the procedure through the consent procedure (Article 218(6)(a) TFEU).193 If Parliament refuses to give its consent, the international agreement cannot be concluded. Parliament therefore has a ‘veto’ power in this context. Consultation of Parliament by the Council (Article 218(6)(b) TFEU) is required in all other cases. The only exception to the consent and consultation procedures are international agreements relating exclusively to the common foreign and security policy, where the Council can act without the Parliament’s approval.194 Therefore the majority of international agreements cannot be concluded without Parliament’s acceptance. The Treaty provisions do not give reasons why Parliament can use its ‘veto’ prerogative, which leaves Parliament with broad discretion. The procedural side of Parliament’s involvement with international agreements is included in Rule 108 of the ROP.195

With regard to international agreements, since 2009, Parliament has used its veto power – and has withheld its consent or declined its consent on two occasions, described in Table 26.

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191 Other parliamentary committees can also potentially deal with cross-border issues such as environment, transport, culture or fisheries etc. which all have an international, external dimension.

192 In this regard see also See M. Remáč, International Agreements - A Rolling Check-List, DG EPRS, European Parliament, 2018.

193 The TFEU (Article 218(6)(a) TFEU) requires Parliament’s consent with regard to (1) association agreements, (2) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms, (3) agreements establishing a specific institutional framework by organising cooperation procedures, (4) agreements with important budgetary implications for the Union, (5) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required. In urgent situations, Parliament could be obliged to give its consent within a time limit.

194 See Article 218 (6) TFEU.

Table 26 – Parliament's consent to international agreement withheld or declined (2009-2019)

<table>
<thead>
<tr>
<th>Year</th>
<th>International agreement, procedural file</th>
<th>Decision, votes</th>
<th>Main points</th>
<th>Consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>Anti-Counterfeiting Trade Agreement (ACTA Agreement), 2011/0167(NLE)</td>
<td>Parliament declined to consent. 4 July 2012, (P7_TA(2012)0287) For - 39 Against - 379 Abstained - 165</td>
<td>This was the first time that Parliament exercised its power to reject an international trade agreement.</td>
<td>The rejection meant that neither the EU nor its Member States could join the agreement.</td>
</tr>
</tbody>
</table>

Data Source: Legislative Observatory (OEIL), European Parliament.

The situation regarding the SWIFT Agreement was interesting, as the SWIFT Agreement was the first international agreement that was to be subject to the new (post-Lisbon) procedure for ratification by Parliament. In its recommendation to plenary, The JURI committee noted, inter alia, the need to provide all relevant information and documents to be available for the Parliament’s deliberations. It also noted various issues, such as breaches of principles of necessity and proportionality, or unequal rights of European citizens under US law. According to some authors, by withholding its consent with this agreement, Parliament used the institutional uncertainty that followed the entry into force of the Treaty of Lisbon to successfully reinterpret its right to be 'informed' in international negotiations and transformed it into a right to be 'involved'. Nonetheless, based on this Parliamentary decision, a new set of negotiations had to take place. This subsequently led to a new agreement that was approved by Parliament.

Parliament vetoed a trade agreement for the first time in 2012, with regard to the Anti-Counterfeiting Trade Agreement (ACTA). Here, Parliament followed the recommendation of the INTA committee that highlighted, inter alia, the need for transparency in the negotiations of international agreements, and it challenged ACTA’s impact on legal certainty.

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196 Recommendation of 5 February 2010 on the proposal for a Council decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for purposes of the Terrorist Finance Tracking Program (PE 438.440v02-00).


198 The need for greater transparency was included in point 3 of the JURI committee opinion to the INTA committee, where the JURI committee noted that 'adequate transparency has not been ensured throughout the negotiations on ACTA'. Recommendation of 22 June 2012 on the draft Council decision on the conclusion of the Anti-Counterfeiting Trade Agreement (P7_TA(2012)0287).
recommendation noted, inter alia, that the ACTA text had serious unintended consequences and argued that its intended benefits were outweighed by the potential threats and that under the ACTA adequate protection for citizens’ rights could not be guaranteed.199

In addition to the two above-mentioned international agreements, it is necessary to note the EU-Turkmenistan Partnership and Cooperation Agreement.200 The initial proposal was published back in February 1998 but was not dealt with by Parliament, for reasons relating to lack of respect for the rule of law, democracy and human rights in Turkmenistan. In 2011, the AFET committee prepared a recommendation to plenary to give consent to the agreement and its report regarding this file. These documents however did not reach the plenary because of ‘the legal basis of the Council’s request not corresponding to the rights acquired with the Lisbon Treaty’ and reasons relating to ‘Parliament’s request for a human rights monitoring mechanism in the country’.201 The Council again asked Parliament to give its consent in 2015. Nonetheless, the AFET committee suspended the consent procedure until an understanding was reached with the High Representative especially regarding a ‘human rights monitoring mechanism’, involving Parliament and civil society.202 Subsequently, in March 2019, Parliament adopted an interim resolution conditioning future consent upon improvement of the human rights situation in the country.203 Even though Parliament did not withhold or reject its consent in this procedure, the potential power of Parliament in influencing the contents of the agreement is clear to see.

In accordance with Article 218(10) TFEU, Parliament has the right to be immediately and fully informed at all stages of the procedure connected with the conclusion of international agreements, including agreements exclusively relating to EU common foreign and security policy. The Treaty provision is however somewhat broad and as such it does not specify what type of information should be provided to Parliament, nor its format. This point is only tackled in the FA 2010 to some extent, in provisions regarding a constructive dialogue, and flow of information more specifically, in points 23-29. Pursuant to point 23, Parliament has the right to be immediately and fully informed at all stages of the negotiation and upon conclusion of international agreements, while Annex III of the Framework Agreements (Negotiation and conclusion of international agreements) includes several arrangements concerning the provision of information to Parliament regarding the negotiation and conclusion or international agreements.

Parliament should also be informed of the Commission’s intention to propose to start negotiations at the same time as the Council, (Annex III, point 1). In the case of international agreements requiring Parliament’s consent, Parliament should receive all relevant information provided to the Council by the Commission, including draft amendments to adopted negotiating directives, draft negotiating texts, agreed articles, the agreed date for initialling the agreement, and the text of the agreement to be initialled (Annex III, point 5). In the case of other international agreements, Parliament should be provided with information about the draft negotiating directives, the adopted negotiating directives, the subsequent conduct of negotiations and the conclusion of the negotiations (Annex III, point 6).

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199 See the explanatory statement on the INTA committee’s recommendation.
200 See file 1998/0031 (NLE).
201 Explanatory Statement to the AFET’s Interim report (A8-0072/2019).
202 ibid.
Despite the framework agreement – and also the 2014 IIA between Parliament and the Council204 – Article 218(10) TFEU has been unevenly implemented. In the majority of cases, the provision of information depends on a good relationship between the respective Commissioner or Commission directorate-general, and the respective parliamentary committee (or its secretariat). Furthermore, it seems that there is currently no harmonised approach by the Commission's services to providing information (concerning negotiations of international agreements) to Parliament in a coordinated manner. The Council also often fails to transmit the adopted negotiating mandates to Parliament automatically, and Parliament has had to request each of them through exchange of letters – not always successfully.

To overcome the discrepancies and shortcomings in the implementation of Article 218(10) TFEU, point 40 of the IIA BLM 2016 requires that Parliament, the Commission and the Council negotiate 'improved practical arrangements for cooperation and information-sharing within the framework of the Treaties'.205 These negotiations are ongoing since November 2016.206 Despite a lengthy and challenging negotiation process between the institutions (in addition to the three institutions, EEAS is also participating),207 the latest talks have been more positive, and practical arrangements are expected to be concluded before the end of the current legislative mandate. These arrangements should introduce systematisation and predictability in the way the institutions inform each other at all stages of procedures related to international agreements.

In March 2018, following a joint ultimatum of the AFET–INTA committee chairs to the Council threatening suspension of future ratifications of international agreement in the two committees, the Council finally responded positively to the long-standing request to share adopted negotiating mandates with Parliament under the rules applicable to the handling of confidential or classified information. While this has not yet become automatic practice, the Council has started to do so on a more or less systematic basis. The European External Action Service also started to communicate the draft negotiating directives on a more systematic basis. In parallel, the BLM point 40 talks have stalled and have not yet produced significant results, mainly due to a restrictive interpretation of Article 218 (10) by the Council and its wish to restrict cooperation between Parliament, Commission and EEAS on this matter. In a press statement released on 18 April 2019, the two Parliament co-negotiators Elmar Brok (Germany, EPP) and Bernd Lange (Germany, S&D) expressed their 'disappointment about the Member States' unwillingness to engage constructively in this process' and argued that 'the next European Parliament will need to explore other options', not ruling out taking another action in the Court of Justice.

Furthermore, the FA (point 25) also enables the inclusion of a delegation of the Parliament’s Members as **observers in EU delegations during international conferences** so that they can be immediately and fully informed about the conference proceedings. Here, the Commission usually follows Parliament’s requests to allow this participation, usually by the representatives of the respective parliamentary committee. The Commission should also facilitate access for the Parliament’s Members as observers forming part of the EU delegations to meetings of bodies set up by multilateral international agreements involving the Union, whenever such bodies are called upon to take decisions which require the consent of Parliament or the implementation of which may require the adoption of legal acts in accordance with the ordinary legislative procedure (point 26). Nonetheless, the practice of Members requesting to be observers in EU delegations during

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204 Interinstitutional Agreement of 12 March 2014 between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy (2014/C 95/01).

205 The EEAS is also involved in these negotiations, for practical reasons.


207 See above press release; statement by Elmar Brok (EPP, Germany) and Bernd Lange (S&D, Germany).
international conferences is not very extensive. In practice, the Commission usually provides daily briefings to Members who are present, in order to ensure they are fully informed on progress.

Although Members may not participate directly in the negotiations, they may be granted observer status in the negotiations by the Commission (point 25) subject to the legal, technical and diplomatic possibilities. Based on the received information, a practice where Members ask to be observers during negotiations of international agreements is very rare.

Finally, Parliament is able to seek a prior opinion from the Court of Justice on the compatibility of an international agreement with the Treaty (Article 218(11) TFEU). Parliament has used this prerogative in connection with a draft agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data. The opinion of the Court was delivered in July 2017.208

2.10.2. High Representative of the Union for Foreign Affairs and Security Policy and Parliamentary scrutiny over the CFSP

In accordance with Article 36 TEU, the High Representative is obliged to regularly consult Parliament on the main aspects and the basic choices of the CFSP and the CSDP. Furthermore, Parliament has a right to be informed about the evolution of these policies. Parliament's views should be duly taken into consideration, while the High Representative may be involved in briefing Parliament. As with other members of the Commission, Parliament may address questions or make recommendations to the High Representative.

The High Representative is ex officio a Vice-President of the Commission. In this connection, the High Representative, like other Commission members, is subject to Parliament's vote of consent (Article 17 TEU) and hearings before the respective committee.209 Furthermore, in the case of a successful Parliament motion of censure, the High Representative is obliged to resign from their duties carried out in the Commission (Article 17(8) TEU). As noted above,210 this situation has not yet occurred.

Furthermore, the High Representative should regularly inform Parliament regarding developments in enhanced cooperation (Article 328(2) TFEU).211 Apart from provisions included in the TFEU, provisions concerning scrutiny are also included in the Declaration by the High Representative on political accountability212 (2010). In this document, the High Representative promises to seek Parliament’s views on main aspects and basic choices of the CFSP, as well as enhancing the joint consultation meetings with the Bureaux of the AFET committee and the CONT committee (point 1). Furthermore, the High Representative declared that all documents for the strategic planning phases of financial instruments and all consultative documents (point 3) would be communicated. Other consultations and provisions of information are also mentioned (e.g. consultation on the identification and planning of election observation missions), including access to classified documents (point 4). As this document only includes self-imposed obligations on the High Representative, its provisions have the character of promises by the current office-holder, rather than legal obligations for the office of the High Representative. Therefore, any accountability of the High Representative to Parliament based on this document is a political one. However this political responsibility has to be checked against the fact that Parliament, based on present

208 See Opinion of the Court (Grand Chamber) of 26 July 2017 (Opinion 1/15).
209 See Section 2.1.
210 See Section 2.2.
211 For more information on enhanced cooperation, especially Permanent Structured Cooperation (PESCO) see I. Kristo Kiendl, The implementation of the Treaty provisions concerning enhanced cooperation, EPRS, European Parliament, 2018.
212 Declaration by the High Representative on political accountability.
provisions of the Treaties, cannot withdraw its confidence in the High Representative.213 Procedural rules concerning the Parliament’s recommendations to the High Representative are included in Rule 113,214 while consultations and provision of information by the High Representative are included in Rule 113a 215.

Based on the information received, it seems that the cooperation between Parliament and the High Representative is currently very extensive and can be assessed as rather positive. The present High Representative is very active towards Parliament, including being present and active during plenary sessions and meetings of the AFET committee. On average the High Representative consults with Parliament twice per month currently, on various topics linked to external relations. Furthermore, Parliament holds twice-yearly debates on the state of play of CFSP and CSDP on the basis of annual progress reports on their implementation.216 The High Representative also often provides ad personam committee briefings.

It appears that, based on available information, Parliament occasionally addresses recommendations to the High Representative who seems to take them seriously and tries to implement them.217 These recommendations are however usually very broad and as such they allow the High Representative to concentrate only on the most obvious points while disregarding the rest. Apart from such official recommendations, informal recommendations are sometimes also provided to the High Representative.

Currently, the AFET committee is the main committee cooperating with the High Representative, however other committees such as the INTA committee, the LIBE committee, the DEVE committee, the SEDE subcommittee and the DROI subcommittee also regularly meet with the High Representative/Vice-President.

213 It should be noted that the High Representative, Federica Mogherini, during her Parliamentary hearing in 2014, promised to fully respect the Declaration of political accountability (adopted by her predecessor). In this regard Mogherini expressed interest in ‘finding pragmatic solutions with Parliament to implement the Declaration’ more fully and systematically, for instance with regard to information on international agreements’. See Answers to the European Parliament, Questionnaire to the Commissioner-designate (Mogherini), 2014.


216 See various speeches of the High Representative in the Parliament’s plenary e.g. on a European human rights violations sanctions regime (13 March 2019); on the killing of the Saudi journalist Jamal Khashoggi (23 October 2018); on the situation in Uganda (13 September 2018), on the situation in Myanmar (13 September 2018); on the conflict in Georgia (12 June 2018); on EU-NATO relations at the European Parliament plenary session (12 June 2018); on Libya (29 May 2018); on the situation in Russia (17 April 2018); on the Progress on the UN Global Compact for safe, regular and orderly migration and UN Global Compact on refugees (13 March 2018); or on the situation in Zimbabwe (8 February 2018). According to the information published on the Parliament’s plenary website, between 2014 and 2019 the current High Representative (Mogherini) participated in the debate in plenary or gave a speech on more than 180 occasions.

217 See for example, European Parliament recommendation of 26 March 2019 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on the new comprehensive agreement between the EU and Uzbekistan (P8_TA(2019)0224), European Parliament recommendation of 28 March 2019 to the Council and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy concerning the Proposal of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for a Council Decision establishing a European Peace Facility (P8_TA(2019)0330), European Parliament recommendation of 30 May 2018 to the Council, the Commission and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on Libya (P8_TA(2018)0227), European Parliament recommendation of 1 March 2018 to the Council, the Commission and the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy on cutting the sources of income for jihadists – targeting the financing of terrorism (P8_TA-PROVI(2018)0059), or an upcoming recommendation to the High Representative concerning the defence of academic freedom in the EU’s external action (See 2018/2117(INI)).
Furthermore, Parliament has achieved a degree of informal cooperation with the European External Action Service (EEAS).\footnote{218 Since the EEAS is not a Commission body, it is not discussed in this study in any further detail.} Parliament’s scrutiny of the CFSP is carried out mainly through CFSP Joint Consultation Meetings and the annual CFSP resolution.\footnote{219 The annual reports on the CFSP and CSDP are adopted by the Council and are therefore not discussed in this study. See for example the Council’s CFSP report 2018, CFSP report 2017 or CFSP report 2016.}

In addition to the Parliament’s political dialogue with the High Representative, Parliament also exercises its authority regarding external relations through the budgetary procedure. Parliament (together with the Council) approves the annual CFSP budget and as such, it can considerably impact on its character.\footnote{220 In this regard, pursuant to point 25 of the IIA on budgetary discipline, the High Representative has to consult Parliament annually on a document ‘setting out the main aspects and basic choices of the CFSP, including the financial implications for the general budget of the Union’, a requirement which effectively takes place in practice.} In this regard, pursuant to point 25 of the IIA on budgetary discipline, the High Representative has to consult Parliament annually on a document ‘setting out the main aspects and basic choices of the CFSP, including the financial implications for the general budget of the Union’, a requirement which effectively takes place in practice.

Furthermore, Parliament also scrutinises the implementation of the EU external financing instruments (EFIs) under the MFF. In this regard a series of \textit{strategic dialogues} between the AFET and DEVE committees and the Commissioners in charge, including the High Representative, take place ahead of the adoption of multiannual programming documents. Other instruments, such as DEVE and AFET’s working groups on the instruments, have been put in place to facilitate the scrutiny of their implementation.\footnote{221 For more about the EFIs, please see I. Ioannides, EU external financing instruments and the post-2020 architecture: European Implementation Assessment, DG EPRS, European Parliament, 2018, as well as the \textit{Mid-term review of the external financial instruments}, Committee on Foreign Affairs, European Parliament, 2018.} Parliament’s efforts to have a more binding say on the definition of strategic priorities in the programming of EU assistance abroad, which could have been achieved by changing the procedure for the adoption of multiannual programming documents (from the traditional comitology to delegated acts), was fiercely opposed by the Commission, EEAS and Council during the negotiations on the last MFF. The negotiations on the future MFF will provide yet another occasion to improve Parliament’s scrutiny rights in this field. Nonetheless, following an assessment that strategic dialogues were rather disappointing from the point of view of the Parliament’s influence on steering strategy, the request to use the delegated acts procedure for multiannual programming was renewed in the first reading positions concerning legislative proposals on the Neighbourhood, Development and International Cooperation Instrument\footnote{P8_TA-PROV(2019)0298.} and the Instrument for Pre-accession Assistance (IPA III ).\footnote{P8_TA-PROV(2019)0299.}

\textbf{2.10.3. Summary}

The Lisbon Treaty also strengthened Parliament’s position with regard to external relations. Despite some limitations in this regard (e.g. constraints on the types of international agreements requiring consent, or the fact that the main role in this field is played by the Council), Parliament can to some limited extent also scrutinise the Commission in this particular field.

The Parliament’s veto power with regard to some international agreements, which is probably its strongest, yet still rather limited, tool in this field, is not a scrutiny tool per se. Parliament can choose to use it if it deems such action necessary, e.g. Parliament did not receive all necessary information with regard to the negotiation of international agreements as presumed by the Treaties – an obligation that is usually linked to the Commission. Parliament’s use of this power only a couple of months after the Treaty of Lisbon entered into force, gave a clear signal that in this area Parliament can do more than merely rubber-stamp international agreements, as a rather high number of

\footnotesize

\footnotesize 218 Since the EEAS is not a Commission body, it is not discussed in this study in any further detail.  
219 The annual reports on the CFSP and CSDP are adopted by the Council and are therefore not discussed in this study. See for example the Council’s CFSP report 2018, CFSP report 2017 or CFSP report 2016.  
220 In this regard, see Section 2.6.  
221 For more about the EFIs, please see I. Ioannides, EU external financing instruments and the post-2020 architecture: European Implementation Assessment, DG EPRS, European Parliament, 2018, as well as the \textit{Mid-term review of the external financial instruments}, Committee on Foreign Affairs, European Parliament, 2018.  
international treaties now require its consent. This can subsequently increase the transparency of negotiations on international treaties. Despite the existing positive practices, further efforts are needed to enhance cooperation between the institutions (including the Council and the EEAS) and to systematise their relations, as requested by Article 40 of the IIA.

The relations with the High Representative/Vice-President of the Commission, and Parliament are currently rather extensive and positively perceived. However, certain improvements with regard to drafting recommendations to the High Representative by Parliament (e.g. number of points in resolutions) could be adopted that would allow for a better focus in the recommendations and their subsequent follow-up.

Beyond the scrutiny phase, Parliament can potentially (even considerably) influence external policies by its actions during the adoption of the EU budget and with regard to EFIs.
3. Conclusions and opportunities for action

This study does not intend to provide an in-depth picture of all the areas mentioned above, as such complex legislative procedures deserve dedicated studies. Instead, it aims at providing a general overview of the status quo in the Parliament’s areas of operation, while focusing on the scrutiny of the Commission.

Treaty provisions provide Parliament with powers to scrutinise the Commission across a spectrum of areas. In a narrower sense, these areas include competences with regard to the investiture of the Commission, motion of censure, parliamentary questions, the work of inquiry committees, scrutiny with regard to external relations, and the right of Parliament to be informed by and receive reports from the Commission. However, beyond these areas of traditional parliamentary scrutiny and based on the Treaty provisions, Parliament can also exercise its scrutiny of the Commission in the fields of budgetary matters and legislative procedures, including delegated acts. Parliament also enjoys the possibility to begin proceedings against the Commission before the Court of Justice of the European Union in cases described by the Treaties.

The following table provides a short assessment of the intensity and impact of Parliament’s (general control) prerogatives regarding these subjects/fields. The table is based on an analysis of the previous pages. The **intensity** criterion assesses the frequency of use of particular prerogatives between 2009 and 2019. These prerogatives could have been active (Parliament actively acting towards the Commission), or passive (the Commission dealing with its obligation towards Parliament). The criterion of **impact** assesses the influence of the prerogative on the particular subject/field. Both criteria range from low to high. The assessment included in table 27 is based on the author’s evaluation of the available data.

Table 27 – Intensity and impact of the Parliament’s scrutiny prerogatives (2009 to 2019)

<table>
<thead>
<tr>
<th>Field</th>
<th>Intensity</th>
<th>Impact</th>
<th>Brief assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electoral issues (election of the President of the Commission)</td>
<td>Low</td>
<td>Medium</td>
<td>As, since 2009, the tenure of the Commission’s President is linked with the parliamentary elections, Parliament had only two opportunities to use these prerogatives. After the election of the President, even if the President is elected through the Spitzenkandidaten procedure, Parliament de facto loses power to influence the President, though there might be some closer cooperation.</td>
</tr>
</tbody>
</table>
| Electoral issues (Investiture of the Commission) | Low       | Medium | As since 2009 the tenure of the Commission is linked with the parliamentary elections, Parliament had only two opportunities to use these prerogatives.  
The hearings of the Commissioners-designate before the Parliament’s committees have a considerable impact. On some occasions they led to the withdrawal of a candidate. After the hearings each particular committee has to assess whether the Commissioner complies with her/his promises. |
| Motion of censure                           | Low       | High   | Since 2009, there have been only two cases in which Parliament resorted to use of these prerogatives. However neither of the two cases was successful.  
Nonetheless, use of this procedure or a threat thereof, after a very high threshold in plenary is reached, can lead to the actual fall of the Commission. Sometimes, even a threat to use this competence can lead to a fall of the Commission. |
### Parliamentary scrutiny of the European Commission: Implementation of Treaty provisions

<table>
<thead>
<tr>
<th>Field</th>
<th>Intensity</th>
<th>Impact</th>
<th>Brief assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawal of confidence in individual Commissioner</td>
<td>Never been used</td>
<td>NA</td>
<td>Despite the existing (non-Treaty) provisions, Parliament has never used this prerogative. Because of that it is not possible to assess its impact.</td>
</tr>
<tr>
<td>Parliamentary questions (for written and oral answer)</td>
<td>High</td>
<td>Medium</td>
<td>The Members use this prerogative frequently. Since 2009, there have been more than 100,000 questions for a written answer and more than 1,200 questions for oral answer. The impact is to some extent limited, as the Members sometimes raise concerns about the quality of the Commission’s answers.</td>
</tr>
<tr>
<td>Interpellations (minor and major)</td>
<td>Low</td>
<td>NA</td>
<td>These new instruments have been used only since 2017. So far there have been only four minor interpellations and 21 major ones. The small number of these interpellations and the limited time they are in use make it impossible to assess their impact. The institute of minor interpellation was abolished in January 2019.</td>
</tr>
<tr>
<td>Question time/Question hour</td>
<td>Presently not used</td>
<td>NA</td>
<td>Since 2011, Parliament has not used this prerogative. Due to this, it is not possible to assess its impact.</td>
</tr>
<tr>
<td>Inquiry committees</td>
<td>Low</td>
<td>Medium</td>
<td>Since 2009, there were only two cases in which Parliament decided to set up a committee of inquiry. Despite their backing in the Treaty provisions, inquiry committees have rather limited powers. A potential regulation on the Parliament’s right of inquiry with a clear set of specific rules can strengthen their impact.</td>
</tr>
<tr>
<td>Special parliamentary committees</td>
<td>Medium</td>
<td>Medium</td>
<td>Since 2009, Parliament decided to set up a special parliamentary committee in eight cases. Special committees are not backed by Treaty provisions. This limits their powers, as well as their ‘persuasiveness’. Potential regulation on the Parliament’s right of inquiry with a clear set of specific rules can strengthen their impact.</td>
</tr>
<tr>
<td>Reporting, consultation and providing information</td>
<td>Medium</td>
<td>Medium</td>
<td>Generally, the Commission reports to Parliament, consults Parliament and provides information to Parliament, as requested by the Treaties. As the Commission may opt to merge several reporting obligations into one report it is often unclear whether a particular obligation was fulfilled and if so in which document. Some of the Treaty provisions are without a specific date. A high amount of Commission ‘reporting obligations’ included in secondary EU law might decrease the concentration of those included in the text of the Treaties.</td>
</tr>
<tr>
<td>Establishment of budget</td>
<td>Medium</td>
<td>High</td>
<td>Parliament (together with the Council) establishes the EU budget annually. Since 2009, Parliament has not once rejected the budget proposal. The Conciliation Committee did not reach agreement regarding budget on four occasions.</td>
</tr>
<tr>
<td>Budgetary control (discharge procedure)</td>
<td>High</td>
<td>Medium</td>
<td>Parliament annually decides in a discharge procedure. Since 2009, Parliament has not used (has not had to use) its power to refuse to grant a discharge (never actually used) or to postpone a discharge (not used since 1996). Despite the possible considerable political impact of the Parliament’s refusal to grant a discharge on the Commission’s functions, the Treaties do not connect any legal sanction or consequence with such a refusal.</td>
</tr>
<tr>
<td>Field</td>
<td>Intensity</td>
<td>Impact</td>
<td>Brief assessment</td>
</tr>
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<tr>
<td>Legislative procedure (CWP)</td>
<td>Medium</td>
<td>Medium</td>
<td>Since 2016, cooperation concerning the CWP between Parliament and the Commission (and the Council) has intensified. Parliament does not always adopt a resolution on the legislative priorities that should be included in the CWP, which weakens its impact.</td>
</tr>
<tr>
<td>Legislative procedure (Article 225 TFEU initiative)</td>
<td>High</td>
<td>Medium</td>
<td>Since 2009, Parliament adopted a legislative resolution based on Article 225 TFEU in approximately 26 cases. The Commission followed the Parliament's request to some extent with a proposal in eight cases.</td>
</tr>
<tr>
<td>Delegated acts</td>
<td>Low</td>
<td>High</td>
<td>Parliament has never revoked a delegation, nor has it opposed the tacit renewal of a delegation of power. Furthermore, since 2009, it objected to a delegated act in ten cases. Revocation of a delegation or objecting to a delegated act have a considerable impact on a particular delegated act.</td>
</tr>
<tr>
<td>Legal proceedings</td>
<td>Low</td>
<td>Medium</td>
<td>Parliament starts (or joins) legal proceedings only in a limited number of cases (four since 2009). The impact of this prerogative is limited by the time needed by the Court to decide the case and the uncertainty of the result before the end of proceedings.</td>
</tr>
<tr>
<td>External relations (international agreements)</td>
<td>Low</td>
<td>Medium</td>
<td>Since 2009, Parliament has used its veto power (in the consent procedure) regarding international agreement only twice. The impact of Parliament's scrutiny of negotiations of international agreements is limited by a partial lack of information provided to Parliament and by a need to finish negotiations concerning point 40 of the IIA 2016.</td>
</tr>
<tr>
<td>External relations (High Representative)</td>
<td>High</td>
<td>Medium</td>
<td>Since 2009, Parliament has an extensive, and a rather positive political dialogue with the High Representative. It is unclear whether Parliament has the power to withdraw its confidence in the High Representative. Furthermore, broad and general recommendations to the High Representative may limit the impact of Parliament's prerogatives.</td>
</tr>
</tbody>
</table>

Source: author

A low intensity does not necessarily mean that Parliament action is insufficient. Here, it is necessary to consider that the use of some prerogatives is time limited (e.g. electoral issues), while in the case of others (e.g. legislative proceedings or delegated acts), the limitation is linked with an informed decision of Parliament (e.g. a decision not to start a case before the Court or a decision not to revoke a delegation). In some cases, an assessment was not possible as there is not enough information (e.g. interpellations), or a particular prerogative has not been actively used for some time (e.g. question time).

Conversely, the impact part of the table shows that there might be some limitations to Parliament's prerogatives with regard to the subject or a field. In some cases, such limitations are due to prerogatives in the Treaties (e.g. time limitations, as in the case of the election of the Commission's President) and therefore do not allow Parliament to influence their impact. Although the impact of
Parliament's actions is not considered low, there are fields that might require additional Parliament attention and/or political discussion between Parliament and other EU institutions (e.g. adoption of a regulation on Parliament's right of inquiry). Some of the issues, such as a motion of censure, establishment of budgets, or delegated acts, can have a clear high impact on the Commission and its work.

In addition to this assessment of the impact and intensity of Parliament actions, specific ideas can be highlighted. Based on the analysis of provisions of the Treaties and other selected legislative acts, data received from the Parliament's services, academic literature, studies and documents mentioned above, these ideas applied to the current status of political control of the European Commission by Parliament, can be summarised in the following lines.

- Several of the European Parliament's control prerogatives are useful only in very specific and time limited situations (e.g. election of the European Commission's President, initial hearings of Commissioner-candidates, discharge procedure). This influences the impact of these specific prerogatives.

- Several of the scrutiny prerogatives, not limited in time, have not been used extensively or not at all (e.g. a withdrawal of confidence in an individual Commissioner or question time).

- A very high threshold in the plenary of the scrutiny prerogatives (e.g. motion of censure) practically limits their successful exercise and requires close cooperation across the political groups. This decreases the practical use of such provisions.

- The European Parliament's ability to withdraw its confidence in an individual Commissioner is very limited. Although Parliament can request a change of an individual Commissioner, the actual change of an individual Commissioner depends on the will of the President of the European Commission.

- Because of a lack of clear rules for special parliamentary committees, there is a small difference between them and inquiry committees. A lack of 'a legislative (Treaty) back-up' for special parliamentary committees may lead to their limited practical influence.

- Inquiry committees and special committees do not currently have the right to subpoena witnesses or experts or submission of the documents or the right to impose sanctions, which limits their persuasiveness.

- Parliamentary questions may be a useful tool with regard to getting information from the Commission. Their usefulness can however be questioned when it comes to the substantial (and substantive) control of the Commission.

- There has never been a systematic assessment of the quality of answers by the Commission to Members' questions, due to the difficulties of such an assessment.

- The European Parliament has not really used its power to refuse discharge to the European Commission, and since 2009, the European Parliament has not used the power to stop establishment of the EU budget before the end of the year.

- The European Parliament has never revoked a delegation of power to the European Commission to adopt a delegated act or opposed the tacit renewal of a delegation of power. Since 2009, Parliament has, in ten cases, objected to a delegated act adopted by the European Commission.

- As the European Commission may opt to merge several Treaty-based reporting obligations into one document, it is often unclear whether a particular obligation was fulfilled and if so in which document.

- The European Parliament is sometimes unable reach the majority required for the adoption of the resolution on legislative priorities that should be included in the Commission Annual Work Programme. In this way, it limits its potential impact on the content of the CWP.

- The European Commission follows up on the Parliament's requests under Article 225 TFEU in only a minority of cases.

Although it seems that the Commission fulfils its obligations towards Parliament in a comprehensive manner and that the majority of the Parliament's Treaty-based scrutiny competences are used
correctly, while leading to positive results, there are still issues and areas that provide opportunities for Parliamentary action that could improve or intensify the parliamentary control of the Commission. These issues, for instance, include:

- continuing to invite the Commissioners to parliamentary committees to explain delays or non-delivery of the legislative proposals announced in the CWP;
- repeatedly reminding the Commissioners of their commitments made during their hearings and of Parliament’s requests and priorities;
- regularly verifying the compliance of the Commission’s work with the CWP;
- regularly verifying whether the Commission delivered reports or information required by the Treaty or whether Parliament was consulted;
- urging the Commission to respond promptly in writing to requests made by Parliament;
- urging the Commission to respond promptly to improve the substance and timeliness of their replies to Members’ questions.

Despite having similar (though not the same) competences to national parliaments, the European Parliament’s relationship with the Commission is a special one that does not fully reflect the relations between national governments and national parliaments, due to the different natures of the EU and its Member States – which the relationship between Parliament and the Commission must reflect. Parliament may be the extended arm of the EU citizens, but it needs a working relationship with the Commission.

Nevertheless, when assessing the Parliament’s prerogatives of control over the European Commission, the main reason behind their inclusion in the text of the Treaties must be considered. The character of the European Parliament as a representative of the EU citizens, and the only directly elected EU institution, must be taken into account as the starting point when scrutinising the European Commission.

Since the existing limitations were set by the Treaties, without a change to their text some of the current challenges are difficult to meet. However, even a potential change of the ‘rule book’ does not inevitably mean strengthening Parliament’s position. The issue concerns not only the formal powers at the institution’s disposal, but also the way in which those powers are used.
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The EU Treaties provide the European Parliament with various opportunities to exercise its powers of political scrutiny over the European Commission and the policies and actions it pursues. Application of these prerogatives by the European Parliament increases the democratic legitimacy of the European Union, the accountability of the European executive and the transparency of the system as a whole. This updated implementation assessment examines the way the European Parliament uses its powers to keep the European Commission in check. The cases examined pertain to electoral and institutional issues, motions of censure, parliamentary questions, committees of inquiry and special parliamentary committees, as well as to reporting, consultation and provision of information. The analysis also touches on scrutiny over budgetary issues, of delegated acts, and in the context of legislative procedures, legal proceedings and the EU's external relations.