



THE EUROPEAN PARLIAMENT: POWERS

Parliament asserts its institutional role in European policy-making by exercising its various functions. Parliament's participation in the legislative process, its budgetary and control powers, its involvement in treaty revision and its right to intervene before the European Court of Justice enable it to uphold democratic principles at European level.

LEGAL BASIS

Articles 223 to 234 and 314 of the Treaty on the Functioning of the European Union (TFEU).

OBJECTIVES

As an institution representing the citizens of Europe, Parliament forms the democratic basis of the European Union. If the EU is to have democratic legitimacy, Parliament must be fully involved in the Union's legislative process and exercise political scrutiny over the other EU institutions on behalf of the public.

CONSTITUTIONAL-TYPE POWERS AND RATIFICATION POWERS (1.2.4)

Since the Single European Act (SEA), all treaties marking the accession of a new Member State and all association treaties have been subject to Parliament's assent. The SEA also established this procedure for international agreements with important budgetary implications for the Community (replacing the conciliation procedure established in 1975). The Maastricht Treaty introduced it for agreements establishing a specific institutional framework or entailing modifications to an act adopted under the codecision procedure. Parliament must also give its assent to acts relating to the electoral procedure (since the Maastricht Treaty). Since the Amsterdam Treaty, its assent has been required if the Council wants to declare that a clear danger exists of a Member State committing a serious breach of the European Union's fundamental principles, before addressing recommendations to or imposing penalties on that Member State. Conversely, any revision of the Statute for Members of the European Parliament has to receive the consent of the Council.

Since the entry into force of the Lisbon Treaty, Parliament has been able to take the initiative for treaty revision and has the final say over whether or not to convene a



convention with a view to preparing a future treaty amendment (Article 48(2) and (3) of the Treaty on European Union (TEU)).

PARTICIPATION IN THE LEGISLATIVE PROCESS (1.2.3)

Parliament takes part in the adoption of the Union's legislation to varying degrees, according to the individual legal basis. It has progressed from a purely advisory role to codecision on an equal footing with the Council.

A. Ordinary legislative procedure

From the entry into force of the Treaty of Nice (1.1.4), the codecision procedure applied to 46 legal bases in the EC Treaty. This put Parliament, in principle, on an equal footing with the Council. If the two institutions agreed, the act was adopted at first or second reading; if they did not agree, it could only be adopted after a successful conciliation.

With the Lisbon Treaty (1.1.5), the codecision procedure was renamed the ordinary legislative procedure (Article 294 TFEU). Following that treaty, more than 40 new policies became subject to this procedure for the first time, for example in the areas of freedom, security and justice, external trade, environmental policy and the common agricultural policy (CAP).

B. Consultation

The consultation procedure continues to apply in areas covered by Articles 27, 41 and 48 TEU and to taxation, competition, harmonisation of legislation not related to the internal market and some aspects of social policy.

C. Cooperation (abolished)

The cooperation procedure (former Article 252 EC) was introduced by the SEA and extended under the Maastricht Treaty to most areas of legislation where the Council acts by majority. This procedure obliged the Council to take into account at second reading amendments by Parliament that had been adopted by an absolute majority and taken over by the Commission. Its introduction marked the beginning of real legislative power for Parliament but was abolished after the entry into force of the Treaty of Lisbon (1.1.5).

D. Assent

Following the Maastricht Treaty, the assent procedure applied to the few legislative areas in which the Council acts by unanimous decision, limited since the Amsterdam Treaty to the Structural and Cohesion Funds.

Under the Lisbon Treaty, some new provisions fall under this procedure, now known as the 'consent procedure', such as Articles 7, 14, 17, 27, 48 and 50 TEU, Articles 19, 83, 86, 218, 223, 311 and 312 TFEU and measures to be adopted by the Council when action by the Union is considered necessary and the Treaties do not provide the necessary powers (Article 352 TFEU).

E. Right of initiative

The Maastricht Treaty gave Parliament the right of legislative initiative, but it was limited to asking the Commission to put forward a proposal. This right was maintained



in the Lisbon Treaty (Article 225 TFEU), and it is spelled out in more detail in an interinstitutional agreement between Parliament and the Commission.

BUDGETARY POWERS (1.2.5)

The Lisbon Treaty eliminated the distinction between compulsory and non-compulsory expenditure and put Parliament on an equal footing with the Council in the annual budgetary procedure, which now resembles the ordinary legislative procedure.

Parliament remains one of the two arms of the budgetary authority (Article 314 TFEU). It is involved in the budgetary process from the preparation stage, notably in laying down the general guidelines and the type of spending. It adopts the budget and monitors its implementation (Article 318 TFEU). It gives a discharge on the implementation of the budget (Article 319 TFEU).

Finally, Parliament has to provide its consent to the multiannual financial framework (MFF) (Article 312 TFEU). The MFF for 2014–2020 is the first to be covered under the rules laid down in the TFEU.

SCRUTINY OVER THE EXECUTIVE

Parliament has several powers of scrutiny. In particular, it discusses the annual general report submitted to it by the Commission (Article 233 TFEU) and oversees, together with the Council, the Commission's implementing and delegated acts (Articles 290 and 291 TFEU).

A. Investiture of the Commission

Parliament began informally approving the investiture of the Commission in 1981 by examining and approving its programme. However, it was only when the Maastricht Treaty came into force in 1992 that its approval was required before the Member States could appoint the President and Members of the Commission as a collegiate body. The Amsterdam Treaty took matters further by requiring Parliament's specific approval for the appointment of the Commission President, prior to that of the other Commissioners. Parliament also introduced hearings of Commissioners-designate in 1994. According to the Lisbon Treaty, the candidate for Commission President has to be chosen in accordance with the results of the European elections. Consequently, in its resolution of 22 November 2012 on the elections of the European Parliament in 2014^[1], Parliament urged the European political parties to nominate candidates for the position of President of the Commission in order to reinforce the political legitimacy of both institutions. Since 2014, a so-called Spitzenkandidaten procedure has been in place, whereby European political parties, ahead of European elections, appoint lead candidates for the role of Commission President (1.3.3).

B. Motion of censure

There has been provision for a motion of censure (also called a 'vote of no confidence') against the Commission ever since the Treaty of Rome. Today, general provisions of the Parliament's right to vote on a motion of censure of the Commission are included

[1]OJ C 419, 16.12.2015, p. 185.



in Article 17(8) TEU and in Article 234 TFEU. Such a motion requires a two-thirds majority of the votes cast, representing a majority of Parliament's component members. A successful vote on a motion of censure leads to the resignation of the Commission as a body, including the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy with regard to his/her duties carried out in the Commission. To date, Parliament has tried several times unsuccessfully to use the relevant Treaty provisions and their predecessors to remove a Commission College.

C. Parliamentary questions

Questions with a request for a written answer may be put by any Member to the President of the European Council, the Council, the Commission or the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy. According to Article 230 TFEU, the Commission shall reply orally or in writing to questions put to it by Parliament or its Members, and the European Council and the Council shall be heard by Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council.

Consequently, parliamentary questions take the form of written and oral questions with or without debate and questions for Question Time.

D. Committees of inquiry

According to Article 226 TFEU, Parliament has the power to set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of Union law. The same article provides that the detailed provisions governing the exercise of the right of inquiry shall be determined by Parliament itself, acting by means of regulations on its own initiative after obtaining the consent of the Council and the Commission. Until such a regulation is adopted, the right of inquiry is exercised in accordance with a 1995 interinstitutional agreement annexed to Parliament's Rules of Procedure^[2]. Parliament has repeatedly expressed the need to improve communication and cooperation between the three institutions in order to be able to fulfil its mandate based on Article 226 TFEU. In 2014, it adopted a legislative resolution on a proposal for a regulation on the detailed provisions governing the exercise of the European Parliament's right of inquiry^[3]. However, the negotiations between the three institutions on the proposal have constantly been in a deadlock. Consequently, in April 2019, Parliament adopted a resolution^[4] in which it expressed its deepest disagreement with the attitude of the Council and the Commission, which, after more than four years of informal meetings, continue to prevent a formal meeting to discuss possible solutions to the problems identified. In its resolution, Parliament considers that the Council and the Commission have failed to comply with the principle

[2]Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry, OJ L 113, 19.5.1995, p. 1.

[3]European Parliament legislative resolution of 16 April 2014 on a proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry and repealing Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission, OJ C 443, 22.12.2017, p. 39.

[4]European Parliament resolution of 18 April 2019 on the negotiations with the Council and Commission on the legislative proposal for a regulation on the European Parliament's right of inquiry, P8_TA(2019)0440.



of interinstitutional cooperation and invites them to resume negotiations on the matter with the newly elected Parliament.

E. Scrutiny over the common foreign and security policy

Parliament is entitled to be kept informed in this area and may address questions or recommendations to the Council. It must be consulted on the main aspects and basic choices of the common foreign and security policy (CFSP) (Article 36 TEU). The implementation of the interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management (2013/C 373/01) has also improved CFSP consultation procedures as far as financial aspects are concerned. The creation of the new role of High Representative of the Union for Foreign Affairs and Security Policy enhances Parliament's influence, as the High Representative is also a Vice-President of the Commission.

APPEALS TO THE COURT OF JUSTICE

Parliament has the right to institute proceedings before the Court of Justice in cases of violation of the Treaty by another institution.

It has the right to intervene, i.e. to support one of the parties to the proceedings, in cases before the Court. In a landmark case, it exercised this right in the Isoglucose judgment (Cases 138 and 139/79 of 29 October 1980), where the Court declared a Council regulation invalid because the Council was in breach of its obligation to consult Parliament. In an action for failure to act (Article 265 TFEU), Parliament may institute proceedings against an institution before the Court for violation of the Treaty, as for instance in Case 13/83, in which the Court ruled against the Council for failing to take measures relating to the common transport policy.

With the Treaty of Amsterdam, Parliament acquired the power to bring an action to annul an act of another institution, but only for the purpose of protecting its own prerogatives. Since the Treaty of Nice, Parliament has no longer had to demonstrate a specific interest, and is therefore now able to institute proceedings in the same way as the Council, the Commission and the Member States. Parliament may be the defending party in an action against an act adopted under the codecision procedure or when one of its acts is intended to produce legal effects vis-à-vis third parties. Article 263 TFEU thus upholds the Court's rulings in Cases 320/81, 294/83 and 70/88.

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 TFEU).

PETITIONS (4.1.4)

When EU citizens exercise their right of petition, they address their petitions to the President of the European Parliament (Article 227 TFEU).

EUROPEAN CITIZENS' INITIATIVE (4.1.5)

Parliament organises a hearing with the proponents of successfully registered ECIs under the auspices of the Committee on Petitions. On 17 April 2019, Parliament and



the Council formally adopted the new Regulation on the European citizens' initiative^[5], which is currently waiting for its official publication. The new rules will apply as of 2020.

APPOINTING THE OMBUDSMAN

The Treaty of Lisbon provides that Parliament elects the European Ombudsman (Article 228 TFEU) ([1.3.16](#)).

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[5] <https://data.consilium.europa.eu/doc/document/PE-92-2018-INIT/en/pdf>

