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 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 (1.4.2)

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) TEU).

PARTICIPATION IN THE LEGISLATIVE PROCESS (1.4.1)

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, 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, 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 CAP.

B. Consultation
The consultation procedure continues to apply to taxation, competition, harmonisation of legislation not related to the internal market and some aspects of social policy.

C. Cooperation
The cooperation procedure (former Article 252 EC) was introduced by the SEA and was 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. This marked the beginning of real legislative power for Parliament. The importance of the cooperation procedure diminished with the wider use of the codecision procedure introduced by the Amsterdam Treaty. It survived in four provisions of the Economic and Monetary Policy 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 subjects fall under this procedure, now generally renamed the consent procedure, such as 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 is maintained in the Lisbon Treaty (Article 225 TFEU), and is spelled out in more detail in the latest Interinstitutional Agreement between the Commission and Parliament.

BUDGETARY POWERS (1.4.3)
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 (Article 312 TFEU). The first one under the rules of the Lisbon Treaty was adopted in December 2013.

**SCRUTINY OVER THE EXECUTIVE**

Parliament has several powers of scrutiny. In particular, it discusses the annual general report (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 has taken 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.

**B. Motion of censure**

There has been provision for a motion of censure against the Commission (under what is now Article 234 TFEU) ever since the Treaty of Rome. Such a motion requires a two-thirds majority of the votes cast, representing a majority of Parliament’s component members. If it is passed, the Commission must resign as a body. There have been only eight motions of censure since the beginning: none has been adopted, but the number of votes in favour of censure has steadily increased. However, the most recent motion (put to the vote on 8 June 2005) obtained only 35 votes to 589, with 35 abstentions.

**C. Parliamentary questions**

These take the form of written and oral questions with or without debate (Article 230 TFEU) and questions for Question Time. The Commission and Council are required to reply.

**D. Committees of inquiry**

Parliament has the power to set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of Union law (Article 226 TFEU).

**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 (Article 36 TEU). Implementation of the interinstitutional agreement on budgetary discipline and sound financial management (2006/C 139/01) has also improved CFSP consultation procedures as far as financial aspects are concerned. The creation of the new 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 (2.1.4)**

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 (2.1.5)**

Parliament organises a hearing with the proponents of successfully registered ECIs under the auspices of the Committee on Petitions.

**APPOINING THE OMBUDSMAN**

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

Petr Novak
10/2015