

The powers of the European Parliament

SUMMARY

Since its inception in 1951, the European Parliament has come a long way. Initially a consultative body composed of delegations of national parliaments, it became a directly elected institution, obtained budgetary and legislative powers, and now exercises influence over most aspects of EU affairs. Together with representatives of national governments, who sit in the Council, Parliament co-decides on European legislation, in what could be seen as a bicameral legislature at EU level. It can reject or amend the European Commission's proposals before adopting them so that they become law. Together with the Council of the EU, it adopts the EU budget and controls its implementation.

Another core set of European Parliament prerogatives concerns the scrutiny of the EU executive – mainly the Commission. Such scrutiny can take many forms, including parliamentary questions, committees of inquiry and special committees, and scrutiny of delegated and implementing acts. Parliament has made use of these instruments to varying degrees. Parliament has the power to dismiss the Commission (motion of censure), and it plays a significant role in the latter's appointment process.

Parliament has a say over the very foundations of the EU. Its consent is required before any new country joins the EU, and before a withdrawal treaty is concluded if a country decides to leave it. Most international agreements entered into by the EU with third countries also require Parliament's consent. Parliament can initiate Treaty reform, and also the 'Article 7(1) TEU' procedure, aimed at determining whether there is a (risk of) serious breach of EU values by a Member State.



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An evolving institution

Since the establishment of the Common Assembly of the European Coal and Steel Community (ECSC) in 1951, the European Parliament has come a long way. Initially a consultative body composed of delegations of national parliaments, it has continually and successfully pushed for more powers and increased parliamentarisation of the EU political system.¹ Soon after its establishment, the Assembly renamed itself the European Parliament (1962). It then obtained budgetary prerogatives (1970, 1975), became a directly elected institution (1979) and obtained legislative powers (1986). The number of areas in which Parliament decides on an equal footing with the Council has grown continually over time, as has Parliament's role in the Commission's appointment process, the conclusion of international agreements and scrutiny of delegated decision-making (delegated and implementing acts). Over time, Parliament has become an equal partner in the 'triangle' of EU law-making institutions (Parliament, Council and Commission) and now exercises influence over most aspects of EU affairs.² As the only directly elected institution at EU level, the European Parliament is at the core of representative democracy, which forms the foundation of EU democracy (Article 10(1) of the Treaty on European Union, TEU). It remains a continually evolving institution, whose ascent should be seen in the broader context of developments that have been crucial in shaping the EU's institutional landscape. These include, for instance, the advent of direct elections (1979), successive Treaty reforms strengthening both the supranational and the intergovernmental elements of the EU political system, the emergence of the European Council as a fully fledged impetus-giving EU institution, and the un-ending quest for increased legitimacy of the EU political system.

Treaty provisions on democratic principles

Article 10 TEU

1. The functioning of the Union shall be founded on **representative democracy**.
2. Citizens are directly represented at Union level in the **European Parliament**.

Member States are represented in the **European Council** by their Heads of State or Government and in the **Council** by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

Article 14 TEU

1. The European Parliament shall, jointly with the Council, exercise **legislative** and **budgetary** functions. It shall exercise functions of **political control** and consultation as laid down in the Treaties. It shall elect the President of the Commission.
2. The European Parliament shall be composed of representatives of the Union's citizens. [...]
3. The members of the European Parliament shall be elected for a term of five years by **direct universal suffrage** in a free and secret ballot.

Parliament as legislator

As is the case with most parliaments, legislative work is at the core of the European Parliament's activities. Together with representatives of national governments sitting in the Council, Parliament co-decides on European legislation as part of what could be seen as a bicameral legislature at EU level. It rejects, adopts or, commonly, amends Commission proposals. Parliament's involvement depends on the policy area and may imply (a) being consulted, (b) giving consent or (c) co-legislating on an equal footing with the Council (ordinary legislative procedure). In addition, in a few cases, EU Treaties envisage the adoption of a legislative act by Parliament, after obtaining the consent of the Council and/or the Commission (d). This is the case, for example, concerning the right to set up committees of inquiry (Article 226 of the Treaty on the Functioning of the European Union (TFEU)) and regarding the statute of the European Ombudsman (Article 228 TFEU).

The **consultation** procedure (a) involves the Council obtaining Parliament's opinion before adopting a legislative act, but this opinion is not binding on the Council. This procedure applies, for example, in the area of family law rules with cross-border implications (Article 81(3) TFEU). The

consent procedure (b) means that Parliament may essentially veto a measure but not amend it (e.g. measures to combat discrimination on grounds other than nationality, Article 19(1) TFEU).

The **ordinary legislative procedure** (c) consists of the joint adoption of an act by the European Parliament and the Council on a proposal of the Commission. Here, both legislators need to agree on an identical text before it becomes law, which may take up to three readings in each of the institutions. This process can take typically **18**, and even as much as **40, months**, from the Commission's proposal until the act's signature.³ Some acts, however, are adopted exceptionally quickly, as was the case for the European Fund for Strategic Investments (EFSI) and some Brexit-related legislation during the 2014-2019 parliamentary term.⁴ More often than not, this process is accompanied by 'trilogues' – informal negotiations between the co-legislators aimed at reaching agreement on a particular file.

The number of areas in which Parliament co-legislates in the ordinary legislative procedure has grown over time and, currently, most legislative acts are adopted following the ordinary legislative procedure, including laws concerning the EU's internal market, the environment, consumer protection, data protection, regional development, agriculture and fisheries, security and justice, energy, etc. During the 2014-2019 legislature (8th parliamentary term), the EU legislature adopted a total of **401 acts** under the ordinary legislative procedure (compared with 488 during the 2009-2014 parliamentary term). Most were in the areas of justice and home affairs, economic and monetary affairs, environment, public health and food safety.⁵ Parliament has no or only limited legislative powers in the areas of, for example, taxation, health services, education and foreign policy.

The above demonstrates that Parliament is an important player in the EU legislative process; although the final outcome generally also depends on the action of other institutions and compromises forged in the course of often lengthy and complex negotiations. Furthermore, Parliament's legislative powers depend on the area involved and vary considerably. It is in this context that, in 2017, Parliament [called](#) for the remaining special legislative procedures (consultation or consent) to be replaced with the ordinary legislative procedure.

Budgetary powers

Together with the Council, Parliament is one arm of the EU's 'budgetary authority' – it sets the budget and controls its implementation. Here, too, Parliament has long sought greater powers, which continue to vary depending on the procedure involved. Regarding the revenue side of the budget, Parliament's role is the least developed (consultation procedure), as Member States have traditionally been eager to keep control over the EU's 'own resources'. The latter are largely financed by contributions from Member States based on their gross national income, contributions based on national value added tax income and customs duties imposed on imports. Here, the Council decides unanimously and after consulting Parliament; a national ratification process is also involved (Article 311 TFEU).

On the expenditure side of the budget, Parliament's powers are more far-reaching. The long-term (seven-year) financial perspective – the '**multiannual financial framework**' (MFF) – is decided by the Council after obtaining Parliament's consent (Article 312 TFEU). In May and June 2018, the Commission tabled a package of proposals for the next MFF, covering the 2021-2027 period, on which negotiations are [ongoing](#). The European Council discussed the matter during its [October 2019 meeting](#), with a view to moving closer to agreement at its next meeting, in December. Strengthening flexibility provisions to address new challenges and a compulsory mid-term review and revision are among Parliament's long-standing positions regarding the MFF.

The **annual budget** is adopted jointly by Parliament and the Council within the ceilings set by the MFF. Budget negotiations, i.e. negotiations on how money will be allocated, have frequently been fraught with conflict and have often proved a mammoth task for legislators.⁶

Parliament monitors the implementation of the budget and gives **discharge** to the Commission and other bodies on the implementation of the annual budget, acting on a recommendation from the Council (Article 319 TFEU).

In sum, while Parliament has little formal power regarding the EU's revenues, it must approve the multiannual plan before it becomes law, it co-decides the annual budget and it holds the EU executive to account.

Parliamentary scrutiny

Another core set of European Parliament's prerogatives concerns scrutiny of the EU executive – mainly the Commission but also other institutions and bodies.⁷ This scrutiny can take many forms, including parliamentary questions, committees of inquiry and special committees, the reporting and information duties of the Commission, scrutiny of delegated decision-making (delegated and implementing acts), and the above-mentioned discharge procedure.

In July 2019, EPRS published an extensive [study](#) on how the European Parliament has made use of its prerogatives relating to scrutiny and control since the entry into force of the Lisbon Treaty (2009). It covers, inter alia, electoral and institutional issues, motions of censure, parliamentary questions, committees of inquiry and special committees, budgetary powers, delegated acts and international agreements. It found that Parliament has made use of its scrutiny prerogatives to varying degrees (low to high) and with varying levels of impact.

One of the oldest scrutiny powers of Parliament in this regard is the **right to question** the European Commission, accompanied by the latter's obligation to reply orally or in writing to such questions (Article 230 TFEU). A July 2019 [EPRS study](#) (see box) shows that Members of the European Parliament make frequent use of this prerogative, and that since 2009, there have been over 100 000 questions for written answer, and over 1 200 questions for oral answer. Aware of the large number of questions reaching the Commission, Parliament has imposed caps on the number of questions for written answer per Member (maximum 20 questions over a rolling period of three months) and has [bemoaned](#) the often 'uninformative' answers from the Commission.

EU Treaties and secondary law (regulations and directives) contain numerous **reporting, informing and consulting** obligations of the Commission, and these also form part of parliamentary scrutiny activities. In some, and far fewer, cases, the Treaties empower Parliament to request information (e.g. Article 319(3) TFEU).

Further powers of scrutiny include **committees of inquiry**, set up to investigate 'alleged contraventions or maladministration in the implementation of Union law' (Article 226 TFEU), as well as **special parliamentary committees**. Both types of committee are temporary in nature, but special committees have a broader scope as they are not limited to contraventions or maladministration, and can deal with any topic or issue of concern. The above-mentioned 2019 EPRS study (see text box above) has shown that Parliament's use of committees of inquiry is not extensive, and that between 2009 and 2019 there have been two committees of inquiry, triggered by the 'Dieselgate' and 'Panama papers' affairs: the Committee on Emission Measurements in the Automotive Sector (EMIS) and the Committee on Money Laundering and Tax Avoidance and Tax Evasion (PANA), respectively. Special committees have been more common within the same time period (for instance the special committees on terrorism (TERR) and on tax rulings and other measures (TAXE)).

Another hard-won Parliament prerogative is scrutiny of delegated decision-making (**delegated and implementing acts**). As in

Regulation on the right of inquiry

Parliament has long [called](#) for the revision of the existing rules regarding committees of inquiry, with the aim of making them vital instruments of democratic control. Here, Parliament has a direct right of initiative, but consent is needed from both Council and Commission before Parliament can adopt new rules concerning the exercise of the right of inquiry (Article 226 TFEU). In April 2014, Parliament made a [proposal](#) aiming, not least, to broaden the investigative powers of committees of inquiry. So far, neither the Council nor the Commission have consented to this initiative.

many legislatures, it is not uncommon for the EU co-legislators (Parliament and Council) to establish a legal framework by formulating essential rules, but leaving it to the executive – the Commission – to establish the more detailed (and often technical) provisions, albeit subject to control of the legislator. In the 1960s, the EU system of delegated rule-making and its control became known as 'comitology', in which Parliament initially had no role.

Nowadays, such provisions may be adopted by the Commission in the form of either delegated or implementing acts. Each type of act serves a different purpose and has differing implications when it comes to the institutions' prerogatives. In the case of delegated acts, the European Parliament (with the Council) has the right of veto and may revoke the delegation. This is because delegated acts may 'amend' or 'supplement' certain non-essential elements of legislative acts and are therefore considered to be of a 'quasi-legislative' nature. In the case of implementing acts, Parliament's scrutiny rights are more restricted. Up until now, since the Lisbon provisions on delegated and implementing acts became applicable, Parliament has never revoked a delegation, but has objected to **ten** delegated acts.⁸

According to the EU Treaties, the Commission, as a body, is responsible to the European Parliament (Article 17(8) TEU). It is required to resign as a body if Parliament successfully adopts a **motion of censure** (Article 17(8) TEU). Parliament has several times tried to make use of this prerogative, but so far no motion has been successfully adopted. However, the impending successful vote on such a motion indirectly led to the resignation of the 'Santer Commission' in 1999. In this regard, it is generally agreed that the fact of carrying a 'big stick' implies that it may not be necessary to use it.

The most recent (unsuccessful) attempt to dismiss the Commission (then led by President Jean-Claude Juncker) was launched on 18 November 2014 by the then Europe of Freedom and Direct Democracy (EFDD) group and others over the 'Luxleaks' affair related to Luxembourgish corporate tax schemes. The motion was rejected by 461 votes against, 101 in favour and 88 abstentions.

While the Treaties speak of *collective* responsibility of the Commission and are silent on withdrawing confidence in **individual** Commissioners, Parliament may – in event of a conflict of interest – request that the President of the European Commission withdraw confidence (Parliament Rules of Procedure, [Rule 125\(10\)](#)). The 2010 Framework Agreement between the European Parliament and the Commission commits the Commission President to 'seriously consider' such a request by Parliament. These provisions (which are distinct from those applicable in the Commission's investiture process, discussed below) have so far not been applied.

Investiture of the European Commission

Since its very beginning, the European Parliament has had the power to dismiss the European Commission (then the 'High Authority'), whereas its powers in the Commission's *appointment* have increased only gradually. Under the 1957 Rome Treaty, Commissioners were put forward and the President appointed from among them by 'common accord' of the Member States. Initially, the European Parliament had no role in the process. The Maastricht Treaty (1992) endowed Parliament with the power to approve (and, therefore, also to reject) the Commission as a body before it took office. Article 17(7) TEU now provides that the Commission is subject as a body to the **vote of consent** by Parliament, before being formally appointed by the European Council.

In 1994, Parliament began holding [parliamentary hearings](#) of Commissioners-designate before giving its consent to the new Commission (parliamentary hearings are also held in case of a change (Parliament Rules of Procedure, [Rule 125\(9\)](#)) or reshuffle of portfolios by the Commission President, but this is distinct from the investiture process for a new Commission). Such hearings aim to evaluate the 'general competence, European commitment and personal independence' of the candidates, as well as their 'knowledge of their prospective portfolio and their communication skills' – 'with particular regard to gender balance' ([Annex VII](#) of Parliament's Rules of Procedure). While Parliament

has no power to reject individual Commissioners-designate, it may, in the run-up to the consent vote, exercise political pressure regarding individual candidates or the portfolios assigned to them, and has done so in the [past](#), and again in 2019.

The European Parliament's role in electing the **Commission President** has also gradually increased. The Maastricht Treaty (1992) required that Parliament be *consulted* by Member States before they nominated the person to be appointed as Commission President. According to the Amsterdam Treaty (1997), the Member States' nominee for Commission President had to be *approved* by Parliament.⁹ With the **Lisbon Treaty** (2007), the relevant provisions have undergone further changes, strengthening further the link between Parliament and the head of the EU executive, and requiring, inter alia, the Commission President to be *elected* by Parliament (see below). Currently, the candidate for the President of the Commission is to be proposed by the European Council, but the latter needs to do so while 'taking into account' the parliamentary elections and 'after having held the appropriate consultations' ([Article 17\(7\) TEU](#)). In 2014, this led to the *Spitzenkandidaten* or 'lead candidate' [process](#), in which European political parties, ahead of the elections, nominated lead candidates for the role of Commission President. On 15 July 2014, the European Parliament elected Jean-Claude Juncker, the lead candidate of the European People's Party, Commission President, by 422 votes in favour, 250 against and 47 abstentions.

While Parliament has repeatedly expressed support for the consolidation of the 'lead candidate process', it was not followed after the 2019 elections, with the European Council nominating Ursula von der Leyen as candidate, without her having been nominated as lead candidate by any European political family. On 16 July 2019, Parliament [elected](#) Ursula von der Leyen as President of the European Commission by 383 votes in favour, 327 against and 22 abstentions. In her [opening statement](#) of 16 July 2019, von der Leyen pledged to further strengthen the partnership between the Commission and Parliament, and stressed the need to **review** the EU election and appointment processes, including a reference to improving the *Spitzenkandidaten* process.

In addition to appointing the European Commission, Parliament elects or plays a role in appointments to **other EU bodies and institutions**. For example, it elects the European Ombudsman (Article 228 TFEU), is consulted before the appointment of the President of the European Central Bank (Article 283(2) TFEU) and the members of the Court of Auditors (Article 286(2) TFEU), and is involved to various degrees in the nomination processes for various EU agencies. For example, on 17 September 2019, Parliament voted favourably on Christine Lagarde, who had been proposed by the European Council to be [President of the European Central Bank](#).

Agenda-setting

Unlike many national parliaments, the European Parliament does not have a full right of initiative: except in a handful of cases envisaged by the EU Treaties (e.g. right of inquiry, Article 226 TFEU or statute of the European Ombudsman, Article 228 TFEU), it cannot independently propose new laws but needs to rely on the Commission to do so. The EU Treaties (Article 225 TFEU) empower Parliament to 'request' that the Commission submit proposals that the former considers appropriate, but the Commission maintains discretion over how to respond to such requests. However, current interinstitutional agreements commit the Commission to give 'prompt and detailed consideration' to such requests, to reply to them within three months and give 'detailed reasons' when it decides *not* to submit a proposal in response (point 10 of the 2016 [Interinstitutional Agreement on Better Law-Making](#) and point 16 of the [Framework Agreement](#) between the European Parliament and the Commission). Before being elected Commission President, in her opening statement of 16 July 2019 before Parliament, Ursula von der Leyen expressed support for Parliament's right of initiative, and committed to submit a legislative proposal when requested by Parliament to do so (Article 225 TFEU), in line with the principles of subsidiarity, proportionality and better regulation.

At the same time, despite the lack of a direct right of initiative, Parliament continues to use numerous other avenues to exert influence in setting the agenda for the EU. Non-legislative own

initiative reports adopted by Parliament allow it to express its views on any issue and demand action. Furthermore, before Parliament debates and votes on the election of the President of the Commission, the latter makes a [statement](#) and presents their political guidelines. This opportunity can be used by Parliament to extract concessions from the President-to-be; the same applies to the parliamentary hearings of Commissioners designate. The Commission President's annual (except in election years) [State of the Union](#) address provides a further opportunity for Parliament to help shape the Union's political and legislative agenda, together with the Commission and the Council.

The [2016 Interinstitutional Agreement on Better Law-Making](#) further envisages a process of interinstitutional consultation and cooperation between the Commission, Parliament and the Council with regard to the EU's multiannual and annual programming. Upon the appointment of a new Commission, it and the other two institutions are to 'exchange views on the principal policy objectives and priorities of the three institutions for the new term', and to conduct dialogue both before and after the adoption of the Commission's annual work programme. The annual [joint declarations](#) on the EU's legislative priorities (2017 and 2018/2019) are among other tools leading to reinforced interinstitutional cooperation and shared ownership in EU programming.

The European Parliament is also increasingly involved in activities aimed at *evaluating* EU legislation, which, in turn, can end in calls for improved EU legislation or new initiatives.

'Constitutional' foundations of the EU

Alongside agenda-setting, adopting laws and overseeing the executive, the European Parliament has prerogatives relating to the very nature of the EU and its institutional and constitutional foundations. For example, Parliament's consent is required before any new country can **join** the EU (Article 49 TEU), and it needs to give consent to the withdrawal treaty if a country decides to **leave** (Article 50 TEU). For example, the withdrawal agreement between the United Kingdom and the European Union is subject to Parliament's consent before it can be formally concluded (Article 50(2) TEU). This has allowed Parliament to [insist early](#) in the process on three priorities for the negotiation of the withdrawal treaty; these were the legal status of migrant EU citizens, the settlement of financial obligations between the United Kingdom and the European Union, and not jeopardising the Northern Ireland peace process.

Since the entry into force of the Lisbon Treaty (2009), Parliament has the power to initiate a Treaty **reform process**, as can the Commission or any Member State (Article 48(2) TEU).

Parliament must give its consent before it is determined that an EU Member State is breaching (or is about to breach) the **values of the EU**, and it may itself initiate the 'preventive' mechanism of Article 7(1) TEU. For example, having passed several resolutions concerning the state of the rule of law in Hungary, on 12 September 2018, Parliament [launched](#) the Article 7(1) TEU procedure, 'inviting the Council to determine whether there is a clear risk of a serious breach by Hungary of the values referred to in Article 2 TEU and to address appropriate recommendations' to Hungary.

International agreements

Most international agreements with third countries entered into by the EU require the consent of the European Parliament.¹⁰ This empowers Parliament to play an active role before and during the negotiation process, by insisting on political issues of concern to it. So far, Parliament has flexed its muscles by declining or withholding consent to an international agreement on [two occasions](#) – regarding the SWIFT agreement with the US on the transfer of banking data in February 2010 (Parliament subsequently approved a revised agreement), and the Anti-Counterfeiting Trade Agreement (ACTA) with Australia, Canada, Japan, South Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the US in July 2012.

Furthermore, Parliament must be fully informed 'at all stages of the procedure' leading to the conclusion of international agreements (Article 218(10) TFEU). The above-mentioned 2019 EPRS

study demonstrates that implementation of this article has been uneven and varies across Commission directorates-general.

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ENDNOTES

- ¹ [The European Parliament as a driving force of constitutionalisation](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, 2015, p. 6.
- ² R. Corbett et al., *The European Parliament*, 2016.
- ³ Activity report. Developments and trends of the ordinary legislative procedure, 1 July 2014 – 1 July 2019, Directorate-General for Internal Policies, European Parliament.
- ⁴ Ibid., p. 4 and p.16.
- ⁵ Ibid., Section 1.
- ⁶ A. Ripoll Servent, *The European Parliament*, 2017, p. 81.
- ⁷ On parliamentary scrutiny of agencies see R. Korver, [European Agencies, Common Approach and Parliamentary Scrutiny](#), European Implementation Assessment, EPRS, European Parliament, November 2018.
- ⁸ Overview of delegated and implementing acts in the Parliament, Directorate-General for Internal Policies, European Parliament, May 2019.
- ⁹ Articles 158 and 161 Treaty Establishing the European Economic Community (Rome), Article 158(2) Treaty Establishing the European Community (Maastricht), Article 214(2) Treaty Establishing the European Community (Amsterdam). See also S. Kotanidis, [Role and election of the President of the European Commission](#), EPRS Briefing, July 2019; M. Westlake, [Chronicle of an election foretold: the longer-term trends leading to the 'Spitzenkandidaten' procedure and the election of Jean-Claude Juncker as European Commission President](#), LEQS paper No 102/2016, pp. 24 et seq.
- ¹⁰ This applies, inter alia, to association agreements, agreements with important budgetary implications, and agreements subject to the ordinary legislative procedure or the consent procedure, Article 218(6) TFEU.

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