

Committees of Inquiry in National Parliaments¹ Comparative Survey

ABSTRACT

This survey, provided by the Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, looks into the legal and administrative framework in which parliamentary committees of inquiry operate in the EU Member States. It focuses, in particular, in the investigative powers these committees have at hand to assist national parliaments in exercising parliamentary control. It also examines the role of Member States' parliamentary committees of inquiry in guiding the action of the government, enhancing transparency and eradicating contraventions and maladministration.

The right of inquiry of the European Parliament (Parliament) is governed by [Article 226 of the Treaty on the Functioning of the European Union \(TFEU\)](#), by the [Decision of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's Right of Inquiry](#) and by [Rule 208 of the Rules of Procedure of the European Parliament](#). Under Article 226 TFEU, Parliament may set up a temporary Committee of Inquiry to investigate alleged contraventions or maladministration in the implementation of Union law. The same Article entrusts Parliament with the right initiative to put forward, with the consent of the Council and the Commission, a proposal for a regulation on detailed provisions governing the right of inquiry.

Over the past ten years, Parliament has repeatedly tried to implement its right of initiative enshrined in Article 226 TFEU and to launch proper negotiations with the Council and the Commission on a proposal for a regulation on detailed provisions governing the right of inquiry. On several occasions, it has also expressed its concern as regards the lack of communication and cooperation on the matter. The lead Committee, Committee on Constitutional Affairs, has now again relaunched the pending legislative procedure and, in this context, requested from the Policy Department for Citizens' Rights and Constitutional Affairs an updated survey on how the parliamentary committees of inquiry (PCIs) function in the national parliaments.

The comparative survey on "Committees of Inquiry in National Parliaments" gathers information from in total 20 Member States' parliaments that replied to the Policy Department's questionnaire. The survey looks into the legal and administrative framework in which PCIs operate in the EU Member States' parliaments. It focuses, in particular, in the investigative powers PCIs have at hand to assist national parliaments in exercising parliamentary control. The survey also examines the role of Member States' PCIs in guiding the action of the government, enhancing transparency and eradicating contraventions and maladministration.

¹ Full study in English:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2020/649524/IPOL_STU\(2020\)649524_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/649524/IPOL_STU(2020)649524_EN.pdf)



Most EU Member States' parliaments can set up PCIs, and the legal basis for their establishment is often enshrined in the Constitution. PCIs evaluate possible maladministration or corruption in the implementation of law by, in particular, requesting information and documentation from the government, administrative authorities, and, in some cases, private bodies, and by hearing witnesses or experts. The remit of PCIs at national level often covers everything in "public interest" and therefore seems, at a first glance, broader than that of a PCI set up by Parliament, the latter being competent to examine "alleged contraventions or maladministration in the implementation of Union law". In fact, instead of focusing on maladministration, many PCIs at national level often investigate large-scale scandals and catastrophes, such as financial crimes, corruption, *paedophilia*, smuggling and the reasons for mass tragedies. On the other hand, also in Parliament, PCIs have had a broad spectrum of investigations, focusing, for example, on racism and xenophobia, bovine spongiform encephalopathy (BSE) crisis, emission measurements in the automotive sector, money laundering and tax avoidance. However, many PCIs at national level cover also those fields of competence for which Parliament might establish a temporary special committee instead.

In the responding Member States' parliaments, all PCIs have the right to hear officials and other servants of the state as well as members of governments. In some Member States, the appearance before the PCI is obligatory if summoned. All PCIs also have the right to request information or documentation from public bodies, such as government members, administrative authorities and both public and private bodies, whenever deemed necessary for the conduct of their proceedings. Refusal to attend an investigative hearing or to provide necessary information can, in some national parliaments, result in imprisonment or severe fines; effective sanctions are often felt necessary and justified in case of a significant public interest. However, in a few national parliaments, sanctioning mechanisms and obligatory participation in hearings are considered unjustified due to PCIs' purely political role that excludes any powers similar to those of the judiciary.

As regards *sub judice* rule, in most national parliaments, the PCIs can continue investigations even though legal proceedings on the same matter have been initiated. This has been justified, in particular, by the fact that the investigations by PCIs focus on decisions and behaviour of the government, whereas the targets of legal proceedings are usually individuals. In addition, when the instances work on the same issue in parallel, the respect of the principle of separation of powers becomes particularly important. The parliamentary investigation should not interfere in any way with the judicial investigation.

PCIs' supervisory activities do not have *direct* legally binding or enforceable consequences in the Member States. However, they can still lead to concrete societal, administrative or legislative changes. As PCIs' remit often covers everything in "public interest", both the results of PCI investigations and the investigations themselves often have visibility and political importance. In a moment of a catastrophe or a scandal, PCIs' can function as platforms for public discussions, increase communication and transparency and provide first-hand help against public frustration, anxiety or anger. Most of all, PCIs can play an important role in supervising and guiding the action of the government, in particular by asking justifications and proposing changes, by (at least indirectly) initiating judicial investigations and by prompting parliamentary activity through standing committees that might continue the work initially started by the PCIs. When entrusted with appropriate means, parliamentary committees of inquiry can contribute to increasing good governance, political accountability and democratic legitimacy both at the national and the EU level

Disclaimer and copyright. The opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the official position of the European Parliament. Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the European Parliament is given prior notice and sent a copy. © European Union, 2020.

Research Administrator responsible: Eeva PAVY Editorial assistant: Fabienne VAN DER ELST
Contact: poldep-citizens@europarl.europa.eu
This document is available on the internet at: www.europarl.europa.eu/supporting-analyses

PE 649.524

IP/C/AFCO/2020

Print ISBN 978-92-846-6798-7 | doi: 10.2861/92872 | QA-04-20-308-EN-C

PDF ISBN 978-92-846-6800-7 | doi: 10.2861/655337 | QA-04-20-308-EN-N