



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 Court of Justice of the European Union 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 EU'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 \(SEA\)](#)^[1], 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 EU'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

[1]OJ L 169. 29.6.87, p. 1.



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 Treaty establishing the European Community (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 of the TFEU). Following that treaty, more than 40 new policies became subject to this procedure for the first time in the areas of freedom, security and justice, external trade, environmental policy and the common agricultural policy (CAP), for example.

B. Consultation

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

C. Cooperation (abolished)

The cooperation procedure (former Article 252 of the EC Treaty) 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. Consent

The consent procedure, formerly known as the 'assent procedure', was introduced by the SEA in 1986. Following the Maastricht Treaty, the 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 the consent procedure, such as Articles 7, 14, 17, 27, 48 and 50 of the TEU, Articles 19, 83, 86, 218, 223, 311 and 312 of the TFEU and measures to be adopted by the Council when action by the EU is considered necessary and the Treaties do not provide the necessary powers (Article 352 of the 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 of the TFEU), and it is spelled out in more detail in an interinstitutional agreement between Parliament and the Commission. In addition, there are a few specific cases where Parliament has been given the direct right of initiative. This direct right applies to the regulations concerning its own composition, the election of its Members and the general conditions governing the performance of the duties of its Members, as well as to the setting up of temporary committees of inquiry and to the regulations and general conditions governing the performance of the Ombudsman. The Committee on Constitutional Affairs is currently preparing an own-initiative report on Parliament's right of initiative that specifically sets out to strengthen Parliament's right of legislative initiative.

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 of the 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 of the TFEU). It gives a discharge on the implementation of the budget (Article 319 of the TFEU).

Finally, Parliament has to provide its consent to the multiannual financial framework (MFF) (Article 312 of the 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 of the TFEU) and oversees, together with the Council, the Commission's implementing and delegated acts (Articles 290 and 291 of the 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 to the European Parliament in 2014](#)^[2], 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. Although in the end discarded in 2019, the process is considered important for the transparency and political legitimacy of the EU institutions. (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 in Article 17(8) of the TEU and in Article 234 of the 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 their 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 of the TFEU, the Commission must reply orally or in writing to questions put to it by Parliament or its Members, and the European Council and the Council must 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 of the TFEU, Parliament has the power to set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of EU law. The same article provides that the detailed provisions governing the exercise of the right of inquiry are to 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^[3]. Parliament has repeatedly expressed the need

[2]European Parliament resolution of 22 November 2012 on the elections to the European Parliament in 2014, OJ C 419, 16.12.2015, p. 185.

[3]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.



to improve communication and cooperation between the three institutions in order to be able to fulfil its mandate based on Article 226 of the TFEU. In 2014, it adopted a [position on a proposal for a regulation on the detailed provisions governing the exercise of the European Parliament's right of inquiry](#)^[4]. However, the negotiations between the three institutions on the proposal have constantly been in a deadlock. Consequently, in April 2019, Parliament adopted a [resolution](#)^[5] 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 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 of the TEU). The implementation of the [interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management](#)^[6] has also improved CFSP consultation procedures as far as financial aspects are concerned. The creation of the role of High Representative of the Union for Foreign Affairs and Security Policy has enhanced Parliament's influence, as the High Representative is also a Vice-President of the Commission.

APPEALS TO THE COURT OF JUSTICE OF THE EUROPEAN UNION

Parliament has the right to institute proceedings before the Court of Justice of the European Union (CJEU) 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 CJEU. In a landmark case, it exercised this right in the Isoglucose judgment (Cases 138 and 139/79 of 29 October 1980), where the CJEU 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 of the TFEU), Parliament may institute proceedings against an institution before the CJEU for violation of the Treaty, as for instance in Case 13/83, in which the CJEU 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

[4]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.

[5]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, OJ C 158, 30.4.2021, p. 15.

[6]Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources, OJ L 433I, 22.12.2020, p. 28.



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 of the TFEU thus upholds the CJEU's rulings in Cases 320/81, 294/83 and 70/88.

Finally, Parliament is able to seek a prior opinion from the CJEU on the compatibility of an international agreement with the Treaty (Article 218 of the 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 of the 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 [Regulation \(EU\) 2019/788 on the European citizens' initiative](#)^[7], which came into force on 1 January 2020.

APPOINTING THE OMBUDSMAN

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

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[7]Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative, OJ L 130, 17.5.2019, p. 55.

