

## THE EUROPEAN PARLIAMENT: POWERS

The assertion of Parliament's institutional role in European policy-making is a result of the exercise of its different functions. Respect of democratic principles at the European level is ensured through its participation in the legislative process, its budgetary and control powers and its right to intervene before the European Court of Justice.

### LEGAL BASIS

Articles 189 to 201 EC.

### OBJECTIVES

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

### CONSTITUTIONAL-TYPE POWERS AND POWERS OF RATIFICATION

Since the Single European Act (SEA), all treaties marking the accession of a new Member State and association treaties are subject to Parliament's assent. The SEA also established this procedure for international agreements having 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 is further 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 or penalties to this Member State. On the other hand, the draft Statute for Members of the European Parliament has to receive the assent of the Council.

### PARTICIPATION IN THE LEGISLATIVE PROCESS

Parliament takes part in the drafting of Community 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. Codecision

Since the Treaty of Nice came into force, the simplified codecision procedure (Article 251 EC) applies to 46 legal bases in the EC Treaty that allow for the adoption of legislative acts (\*1.3.1.). It may therefore be considered a standard legislative procedure. It puts Parliament, in principle, on an equal footing with the Council. If they agree the act is adopted at first reading; if they do not agree, the act can only be adopted after successful conciliation.

#### B. Consultation

The consultation procedure continues to apply to agriculture, taxation, competition, harmonisation of legislation not related to the internal market, aspects of social and environmental policy (subject to unanimity), some aspects of the area of freedom, security and justice, and adoption of general rules and principles for 'comitology'. This procedure also applies to a new 'framework-decision' instrument created by the Amsterdam Treaty under the third pillar (Article 34(2)(b) EU) for the purpose of approximation of laws and regulations.

### **C. Cooperation**

The cooperation procedure (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 obliges the Council to take into account at second reading those of Parliament's amendments that were adopted by an absolute majority, in so far as they have been taken over by the Commission. This marked the beginning of real legislative power for Parliament. Its importance has been diminished by the general use of the codecision procedure under the Amsterdam Treaty. It survives only in four provisions of the Economic and Monetary Policy (Articles 98 et seq.).

### **D. Assent**

Since the Maastricht Treaty, the assent procedure applies to the few legislative areas in which the Council acts by unanimous decision, limited since the Amsterdam Treaty to the Structural Funds and Cohesion (Article 161 EC).

### **E. Right of initiative**

The Maastricht Treaty also gives Parliament the right of legislative initiative, but this is limited to asking the Commission to put forward a proposal.

## **BUDGET POWERS (\*1.4.2.)**

Parliament is one of the two arms of the budgetary authority, and has the last word on non-compulsory expenditure (Article 272 EC).

It is involved in the budgetary process from the preparation stage, notably in laying down the general guidelines and the type of spending (Articles 269 et seq. EC).

When debating the budget it has the power to table amendments to non-compulsory expenditure but only to propose modifications to compulsory expenditure (Article 272 EC).

It finally adopts the budget and monitors its implementation (Articles 272, 275 and 276 EC).

It discusses the annual general report (Article 200 EC).

It gives a discharge on implementation of the budget (Article 276 EC).

The Lisbon Treaty will eliminate the distinction between compulsory expenditure and non-compulsory expenditure and put the Parliament at an equal level with the Council in the annual budgetary procedure.

## **CONTROL OVER THE EXECUTIVE**

Parliament has several powers of control.

### **A. Investiture of the Commission**

Parliament began informally approving the investiture of the Commission in 1981 by approving its programme. However, it was only when the Maastricht Treaty came into force (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 Members. According to the Lisbon Treaty the candidate for Commission President will have to be chosen according to the results of the European elections.

### **B. The motion of censure**

The Treaty of Rome made provision for a motion of censure against the Commission (Article 201 EC). It requires a two-thirds majority of the votes cast, representing a majority of Parliament's component members, in which case the Commission must resign as a body. There have been only eight motions of censure since the beginning and none has been adopted, but the number of votes in favour of censure has steadily increased. However, the last motion (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 197 EC) 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 Community law (Article 193 EC).

### **E. Control over common foreign and security policy and police and judicial cooperation**

Parliament is entitled to be kept informed in these areas 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 and on any measure envisaged apart from the common positions on police and judicial cooperation (Articles 21 and 39 EU). Implementation of the interinstitutional agreement on budgetary discipline and sound financial management (2006/C 139/01) has improved CFSP consultation procedures as far as financial aspects are concerned.

After the entry into force of the Lisbon Treaty almost all aspects of police and judicial cooperation as well as other policies in the Area of Freedom, Justice and Security will be subject to the general legislative procedure (codecision). As to foreign policy, the creation of the new High Representative of the Union for Foreign Affairs and Security Policy will enhance Parliament's influence because (s)he will also be 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. It exercised this right in the 'Isoglucose' judgement (Cases 138 and 139/79 of 29 October 1980). In its ruling, the Court declared a Council regulation invalid because it was in breach of its obligation to consult Parliament.

In an **action for failure to act** (Article 232 EC), Parliament may institute proceedings against an Institution before the Court for violation of the Treaty, as in Case 13/83, in which judgment was

found against the Council because it had failed to take measures relating to the common transport policy (\*4.5.1.).

Under the Treaty of Amsterdam the Parliament could bring an **action to annul an act** of another Institution only for the purpose of protecting its prerogatives. The Treaty of Nice amended Article 230 EC: the Parliament doesn't have to demonstrate specific concern and therefore is able to institute proceedings in the same way as the Council, the Commission and the Member States. The 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 230 EC thus upholds the Court's rulings in Cases 320/81, 294/83 and 70/88.

It is finally able to seek a **prior opinion** from the Court of Justice on the compatibility of an international agreement with the Treaty (Article 300 EC, modified by the Treaty of Nice).

## **PETITIONS**

When EU citizens exercise their right of petition, they address their petitions to Parliament. (Article 194 EC) (\*2.5.0.).

## **APPOINTING THE OMBUDSMAN**

Parliament appoints the Ombudsman (Article 195 EC) (\*1.3.14.).

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