

Power to legislate of the European Parliament

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Power to legislate of the European Parliament

While the 1951 Treaty establishing the European Coal and Steel Community (ECSC) did not assign the Assembly any legislative power, the 1957 Treaties of Rome gave the Assembly a role in the legislative process of the Communities, and in a great many cases it had to be consulted prior to the adoption of any Council or Commission decision.

This consultative role evolved with the development of the Assembly. Over the years, the Assembly acquired more and more powers until it obtained the power of codecision, thus putting it on an equal footing with the Council.

The European Parliament participates in the legislative process on a number of levels, depending on the procedure determined by the drafting of Community acts:

- consultation
- conciliation
- assent
- cooperation
- codecision.

Consultation

The consultation procedure applies in cases where no other procedure is specified. The Council takes a decision on the basis of a Commission proposal and after securing the opinion of the European Parliament. The Commission and the Council consider the amendments put forward by Parliament and generally deliver an informal opinion substantiating their decision to accept or reject an amendment. The consultation procedure can be either compulsory or optional.

Conciliation

The conciliation procedure between the European Parliament and the Council, with the active assistance of the Commission, was established by the Joint Declaration of 4 March 1975. It may be followed ‘for Community acts of general application which have appreciable financial implications, and of which the adoption is not required by virtue of acts already in existence’.

When submitting its proposal, the Commission indicates whether the act in question is, in its opinion, capable of being the subject of the conciliation procedure. Both the European Parliament, when delivering its opinion, and the Council may request that this procedure be initiated in the event that the Council intends to depart from Parliament’s opinion.

The aim of the conciliation procedure is to achieve agreement between the European Parliament and the Council. It takes place in a ‘Conciliation Committee’ consisting of representatives of the two institutions. The Commission participates in the work of the Conciliation Committee.

When the positions of the two institutions are sufficiently close, Parliament may deliver a fresh opinion, and the Council will then take a final decision.

Assent

The Council acts on a Commission proposal and after securing the assent of the European Parliament. Assent is required in order to:

- confer specific tasks upon the European Central Bank (Article 105(6) of the EC Treaty),
- amend certain articles of the Statute of the European System of Central Banks (Article 107(5) of the EC Treaty),
- define the tasks, objectives and organisation of the Structural Funds (Article 161 of the EC Treaty),
- define a uniform electoral procedure for the European Parliament (Article 190 of the EC Treaty),
- conclude association agreements based on Article 310 of the Treaty establishing the European Community (EC), agreements establishing a specific institutional framework by organising cooperation procedures, agreements having important budgetary implications for the Community and agreements entailing amendment of an act adopted under the codecision procedure (Article 300 of the EC Treaty),
- determine the existence of a serious and persistent breach by a Member State of the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law (Article 7 of the EU Treaty),
- decide on the accession of new Member States (Article 49 of the EU Treaty).

Cooperation

The cooperation procedure (Article 252 of the EC Treaty) was introduced by the 1986 Single European Act to deal with certain areas, such as measures relating to the establishment and functioning of the common market. Following the implementation of the 1992 EU Treaty, it is applicable in all cases where the Council is obliged to act by a qualified majority.

At first reading, Parliament draws up an opinion on a Commission proposal. The Council, acting by a qualified majority, adopts a common position which is forwarded to Parliament. Within three months, Parliament may approve, reject, or amend the Council's common position. In the latter two cases, Parliament's decision must be adopted by an absolute majority of its Members. If Parliament rejects the common position, at second reading the Council may only act unanimously.

In the case of a parliamentary amendment, the Commission has one month in which to review its proposal. It then forwards to the Council, with its amended proposal, the amendments tabled by Parliament which it has not accepted and expresses its opinion thereon. Within three months, which may be extended by a maximum of one month, the Council may adopt the amended proposal by qualified majority, it may amend it unanimously or adopt the amendments tabled by Parliament but not accepted by the Commission, likewise by unanimity. If no decision is taken within this period, the Commission proposal is deemed not to have been adopted.

Following revision introduced by the 1997 Treaty of Amsterdam, the cooperation procedure was cancelled and replaced in all areas of application by codecision, except economic policy (Article 99, Article 102 and Article 103 of the EC Treaty) and monetary policy (Article 106 of the EC Treaty).

Codecision

The codecision procedure (Article 251 of the EC Treaty) was introduced by the 1992 EU Treaty with a view to increasing the role played by Parliament in the legislative process. There are certain differences between the codecision and cooperation procedures, in particular:

- the possibility of adopting an act at first reading if Parliament proposes no amendments or if the Council approves all the amendments proposed by Parliament,
- the introduction of a conciliation phase between representatives of the Council and Parliament in cases where the Council does not approve all the amendments at second reading.

The codecision procedure was significantly simplified by the 1997 Treaty of Amsterdam. Its scope was extended to new areas by this Treaty and, most recently, by the 2001 Treaty of Nice.