


European Parliament

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The European Parliament

The European Parliament is the first of the seven European Union institutions mentioned in Article 13 of the Treaty on the European Union (EU Treaty). It represents the interests of the European Union's citizens. It contributes to the functioning of the Union in accordance with the principle of representative democracy.¹ The actual part played by the European Parliament in the EU's legislative process reflects at Community level 'the fundamental democratic principle that the peoples should take part in the exercise of power through the intermediary of a representative assembly'.² The principle of democracy also means that any power to adopt an EU measure that can alter the non-essential elements of an EU legislative act must be exercised by an EU institution that is democratically accountable.³

The legal status of the European Parliament derives jointly from Article 14 of the EU Treaty, which defines its main features, and Articles 223 to 234 of the Treaty on the Functioning of the European Union (TFEU), which lay down the operating rules and a series of provisions which refer to it explicitly or implicitly as an institution. Other features of its status are to be found in the protocols annexed to the Treaties, including the protocol (No 2) on the application of the principles of subsidiarity and proportionality and the protocol (No 7) on the privileges and immunities. The system of election of Members of the European Parliament by direct universal suffrage is governed by the Treaties (Article 14 of the EU Treaty and Article 223 of the TFEU) and by the decision of the representatives of the Member States of 20 September 1976 and the act annexed thereto.⁴ The allocation of seats by Member State was defined by the Decision of the European Council of 28 June 2013.⁵ The status of the Members was laid down by the Decision of the European Parliament of 28 September 2005.⁶ A major disagreement between Parliament and the other Community institutions, particularly in the 1980s, helped to enhance the position of the Assembly in the institutional system.

The European Parliament does not have legal personality.

The origins of the European Parliament

The idea of a European parliamentary assembly which would express European public opinion was set out at the [Hague Congress](#) of 7 and 10 May 1948. Its members, who would be elected from among the members of the national parliaments or outside of them, would recommend the measures required in order to bring about the political and economic restoration of the unity which Europe needed. For this purpose, the Congress laid down that such an assembly could consider the legal and constitutional issues raised by the establishment of a European union or federation. The [Council of Europe](#) took up the principle of a parliamentary assembly while considerably watering down its responsibilities. The assembly consisted of representatives of the Member States, with the manner of their appointment being left to the discretion of the Governments (Article 25, formerly 26, of the Statute). In 1951, the Statute of the Council of Europe was revised: from then on the assembly consisted of representatives

¹ Article 10(2) of the EU Treaty.

² Court of Justice of the European Communities, Case 138/79 *Roquette Frères v Council*, known as the isoglucose case [1980] ECR I-3333, paragraph 33; also: Case C-300/89 *Commission v Council*, known as the titanium dioxide case [1991] ECR I-2867, paragraph 20.

³ Court of Justice, Conclusions of Advocate-General Mr Niilo Jääskinen presented on 12 September 2013 in Case C-270/12, *United Kingdom v Council and Parliament*, known as the short-selling case, paragraph 85.

⁴ Decision (76/787/ECSC, EEC, Euratom) of the representatives of the Member States meeting in the Council of 20 September 1976 on the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, OJ L 278, 8 October 1976, p. 1. The Act was last amended by Decision (2002/772/EC) of the Council of 25 June 2002 and 23 September 2002 (OJ L 283, 21 October 2002, p. 1).

⁵ Decision (2013/312/EU) of the European Council establishing the composition of the European Parliament. OJ L 181, 29 June 2013, p. 57.

⁶ Decision (2005/684/EC, Euratom) of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament, OJ L 262, 7 October 2005, p.1.

of each Member State elected by its Parliament or appointed by a procedure laid down by the latter.

In the Community legal order, the European Parliament takes its origin from the Common Assembly, a purely consultative parliamentary institution created by the Treaty of 1951 establishing the European Coal and Steel Community (ECSC).

There is no reference to a parliamentary assembly in the Declaration of 9 May 1950 given by the French Foreign Minister, Robert Schuman. The concept was put forward by Jean Monnet, and by the Belgian and Italian delegations, on the second day of the treaty negotiations as a way of monitoring and providing a counterweight to the High Authority. The constituent parties gave it the name Common Assembly in the ECSC Treaty.

The establishment of the Common Assembly thus provided the democratic legitimacy required by the ECSC. Although its powers were limited, it was a parliamentary assembly and was therefore both representative and sovereign. Article 20 of the ECSC Treaty refers to *representatives of the peoples*, a phrase which demonstrates that the authors wanted to distinguish the Common Assembly from traditional assemblies established within international organisations and made up of representatives of the national governments. The Common Assembly was the first international assembly based on a parliamentary model. Article 21 of the ECSC Treaty explains that it was to be ‘composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage, according to the procedure determined by each respective High Contracting Party’.

The Treaty of 26 May 1952 instituting the European Defence Community (EDC) took a further step forward. Article 38 of the Treaty laid down that the ECSC Common Assembly should examine the question of setting up an Assembly of the European Defence Community, ‘elected on a democratic basis’. On 10 September 1952, the Foreign Ministers of the Six called on the members of the Common Assembly to draw up a draft Treaty instituting a European Political Community. To do this, the Common Assembly was asked to apply, in advance, the rules governing the composition of the EDC Assembly; the French, German and Italian delegations to the Consultative Assembly of the Council of Europe each had to appoint three members who were not also already members of the Common Assembly. These nine members, in addition to the 78 members of the Common Assembly, formed an Ad Hoc Assembly. It met within the Council of Europe. The Ad Hoc Assembly adopted the Draft Treaty embodying the Statute of the European Community on 10 March 1953. Article 11 of the Draft Treaty provided for the creation of a bicameral parliament, of which the first Chamber would be composed of ‘deputies representing the peoples united in the Community’; they would be elected by direct universal suffrage (Article 13). The plan came to nothing, following its rejection by the French National Assembly on 30 August 1954.

After the establishment of the European Economic Community (EEC) and the European Atomic Energy Community (EAEC or Euratom) in 1957, it was agreed that a single assembly would have the powers and responsibilities that the EEC and the EAEC Treaties assigned to it. The single Assembly would also replace the Common Assembly of the ECSC and enjoy the same powers and responsibilities (Articles 1 and 2 of the Convention on certain institutions common to the European Communities).

The single Assembly convened for the first time from 19 to 21 March 1958. At its first session, it took the name *Assemblée parlementaire européenne* in French, *Assemblea parlamentara* in Italian and, more significantly, *Europees Parlement* in Dutch and *Europäische Parlament* in German. On 30 March 1962, the Assembly decided to harmonise its name in the various official languages and opted for *Parlement européen* in French and *Parlamento europeo* in Italian.⁷ That designation was made official by the Single European Act of 1986 (Article 2). In its preamble, the Treaty recognises that the European Parliament is ‘an indispensable means of expression’ of the democratic peoples of Europe.

⁷ Jacqué, Jean-Paul, ‘Parlement européen’, in *Répertoire communautaire Dalloz*, December 2011, Art. 2.

Elected by direct universal suffrage since 1979, the European Parliament has seen its powers increase as European integration has proceeded. The Treaty of Lisbon, which was signed on 13 December 2007 and entered into force on 1 December 2009, put the finishing touches to these developments. It conferred on the European Parliament the exercise of legislative and budgetary functions jointly with the Council. The legislative procedure associating the European Parliament and the Council became the ordinary legislative procedure, i.e. it applies by default, save where the Treaties provide otherwise (Article 289 (2) of the Treaty on the Functioning of the European Union). It also gives a greater place to the national parliaments (Article 12 of the EU Treaty and Protocol No 1 annexed to the Treaties), in keeping with the two-level constitutional system formed by the European Union. The twin underpinning of the Union's democratic legitimacy is hereby affirmed: citizens are directly represented, at Union level, in the European Parliament. The Member States are represented in the European Council by their Head of State or Government and in the Council by their governments, which are themselves democratically accountable either to their national parliaments or to their citizens (Article 10 (2) of the EU Treaty). The Treaty of Lisbon is 'the treaty of the parliaments'.⁸

⁸ Lammert, Norbert, *Europa-Rede*, Humboldt Universität zu Berlin, Berlin, 1 December 2009.