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17 MAI 2019  
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# THE EUROPEAN PARLIAMENT ANOTHER PARLIAMENT



This paper is the result of a working group chaired by **PASCAL LAMY**, President emeritus of the Jacques Delors Institute, with **CHRISTINE VERGER**, Advisor at the Jacques Delors Institute acting as rapporteur, and composed of **PERVENCHE BERÈS**, Member of the European Parliament, **JEAN-LOUIS BOURLANGES**, Member of the French Parliament, **MONICA FRASSONI**, Co-President of a European political party, **VALENTIN KREILINGER**, researcher at the Jacques Delors Institut–Berlin, **ALAIN LAMASSOURE**, Member of the European Parliament, **ALESSIA MOSCA**, Member of the European Parliament, and **GENEVIÈVE PONS**, Director of the Brussels office of the Jacques Delors Institute.

The following analysis focuses on the role and development of the European Parliament during the 2014-2019 parliamentary term, and examines its future prospects. It is the fourth paper in a series of studies by the Jacques Delors Institute on the occasion of the European elections on 23-26 May.<sup>1</sup>

As the electoral campaign has been launched and candidacies announced, the purpose of this paper is to highlight, as concretely as possible, the achievements and limits of an institution that is too little known and politically underestimated.

This will be followed in May by an outline of what a programme for the next legislature could look like, which could potentially be supported by a stable majority in the European Parliament.

## 1. A powerful, innovative, and successful parliament

Few citizens are aware that the European Parliament, which has been elected by direct universal suffrage for 40 years, and whose new members they are about to elect in May 2019, is, for informed observers, **a powerful, innovative and successful institution**.

Today, there is only a low passion for parliamentarism at the national or European level. Instead, there is a crisis of representation and a crisis of politics; there is also the perception that Europe is too removed from the daily concerns of citizens, or sometimes even hostile to their interests. And yet...

It is **a powerful parliament**, as within the still too limited competences of the European

1. "European Parliament 2019: The Parliament And Europe To Come"; "The Campaign For The European Elections: Themes And Divides"; "The Proposals Of The Main European Political Families On The Major Themes Of The European Election Campaign".

Union, it has significantly greater powers than most national parliaments, insofar as it is independent of the executive and only accountable to the citizens who elect it.

It is **an innovative parliament**, insofar as the European Union is a composite of several dozen peoples and political power is based on two sources of legitimacy: Member States and European citizens who participate by indirect and direct universal suffrage in the functioning of its institutions. The Council of the European Union and the Parliament are co-legislators, which grants representation to both Member States and European citizens. They must cooperate and compromise in order to reach an agreement. European democracy is a democracy of negotiation and not of confrontation. It aims to bring together and not to exclude. This cultural difference largely explains why a decision-making process that is very different from democratic practices at the national level escapes the understanding of public opinion and national opinion leaders.

In this respect, the EU could be called a “dual democracy”, or even a “bicameral democracy”. The distribution of seats in the European Parliament takes into account the need for significant representation of each of the peoples making up the Union: no State should have fewer than 6 seats or more than 96. The key principle is that citizens’ representation is ensured in “degressive proportionality”.

It is also **a successful parliament**. The successive European Treaties, from the Single European Act in 1986 to the Treaty of Lisbon, which entered into force in December 2009, have gradually and significantly increased its powers.

Parliament has thus experienced several phases during its rise to power: first it was a natural ally of the Commission, later it acquired budgetary and legislative powers, which involved some mistrust between the institutions (cf. the resignation of the

Commission chaired by Jacques Santer in 1999 under pressure from the EP). Today, Parliament plays its role as a representative of the people. It has often more ambitious decisions than the Commission and the Council, as it is spurred on by civil society. It forces the Council to negotiate.

It has become a **co-legislator in 85 areas of EU competence**: internal market (the most important area); research framework programmes; environment, trans-European networks; energy, transport; consumer protection; the area of freedom, security, and justice; common agricultural policy; aid for the most deprived regions; etc.

Thus, since the 2014 elections, nearly 1000 legislative proposals of the Juncker Commission have been discussed, amended and finally adopted after being negotiated on an equal footing with the Council.

It also has **significant budgetary power**, as the adoption of the annual budget is subject to the co-decision procedure, and it approves the multiannual financial framework. However, unlike national parliaments, it **has no competence over revenue**, as the Member States decide unanimously on the nature and amount of the Union’s resources. This limitation of parliamentary power is a major obstacle to the development of ambitious policies.

**In addition to these powers, there are also:**

- **The appointment of the European Commission, which is now formally elected by Parliament, and the possibility of censuring it.**

- **A veto right in 15 areas, including the approval of important individual appointments, signing of international agreements, accession treaties, and granting discharge for the EU budget, provides Parliament with an important supervisory power.**

- The right to ask the Commission to submit a proposal (indirect right of initiative).

- The consultation procedure, which requires an opinion from Parliament, albeit non-binding, in about 50 areas.

- The possibility of initiating pilot projects and preparatory actions to launch new initiatives that may lead to EU-funded activities or programmes (e.g. support for ARTE, European Solidarity Corps, Erasmus for apprentices, de-radicalisation of prisoners, minimum unemployment benefits, etc.).

According to Jean-Louis Bourlanges, who has been a Member of the European Parliament for nineteen years, “the glass of the MEP is not tall, because the Union’s political competences are very limited, but he drinks from his glass”. The acts of the Union are the result of an agreement that is negotiated between several institutions, but since the European Parliament is elected by proportional representation, no majority can be guaranteed in advance. The work of a Member of Parliament therefore requires “patient work of listening to everyone, narrowing differences, and determining the common good by hand.”<sup>2</sup>

From Maastricht to Lisbon, successive Treaties have thus brought the European institutional set-up closer to a federal-style parliamentary system, composed of a representative chamber of citizens (the Parliament), a representative chamber of states (the Council of Ministers of the Union), and a subordinate link between legislative and executive power. The links between the three poles – the Commission as the executive, the Council of Ministers, and the Parliament elected by direct universal suffrage – are based on two principles: the control of the Commission by Parliament and the co-decision of Parliament and the Council on legislative proposals (directives or regulations) initiated by the Commission.

2. Jean-Louis Bourlanges, « Un Parlement ne peut pas en cacher un autre », *Ena hors les murs*, n°484, Octobre 2018, p. 32-33

3. « Élections européennes : les spécificités d'un scrutin pas comme les autres », Céline Schmitt, *Toute l'Europe*, août 2018

**But why, then, is this parliament, more powerful, innovative and successful than many imagine, still relatively unknown and sometimes even considered “illegitimate”?**

Four considerations are worth mentioning:

- **The crisis of representative democracy** is reflected in a general decline in voter turnout in EU countries and even in Western democracies. The comparison of turnout rates in the European Union and the United States is very significant in this respect.

According to Olivier Rozenberg, a researcher at Sciences Po Paris, interviewed by “Toute l’Europe”,<sup>3</sup> the average abstention rate should be put into perspective: “If we only look at the countries that were present during the first European elections of 1979 and add Greece to them, we can see that the decrease in the participation rate of Europeans is in line with the general decrease in participation. There is therefore no growing disaffection among voters for this election.”

The decline in the European average would thus be partly due to the low turnout in Member States and not be specific to the European elections. However, there is a particular difficulty for citizens to understand that their vote has consequences for the balance of power in the European Parliament, and therefore for the policies pursued.

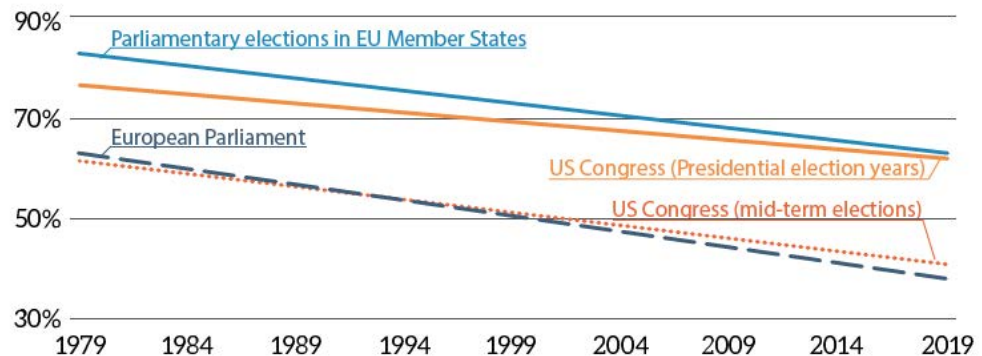
- **The difficult acclimatization to electoral processes in the new democracies of Central and Eastern Europe.** For example, in Slovakia, the Czech Republic, Croatia, Poland and the Czech Republic, abstention rates exceed 75%.

- **The specificity of the Union’s institutional system** (negotiation instead of confrontation) excludes the dramatization of public debate (both an advantage as well as a disadvantage). Over the years, this has hindered popular mobilisation, whatever the

**FIGURE 1 ■ Trends in turnout at national and EP elections**

### Trends in turnout at national and EP elections

The trend lines for turnout in four different types of election in the period since the first EP direct elections took place in 1979 show that voter turnout has been on a consistently downward path, both within the European Union and in the United States. Indeed, these trends are consistent with a general decline in average turnout at elections in most G20 democracies since 1945 – from around 80% in the immediate post-war period to around 60% today.



The graph above highlights the close relationship between the (downward) paths of turnout in EP elections and (mid-term) US Congressional elections, in both absolute values and trends. The parallel declines in turnout at Member States’ parliamentary elections and at European Parliament elections demonstrate that voters treat EP elections in the same way as their national elections, but with an average turnout at national elections around 15 to 20 percentage points higher. In general, elections in which voters decide who runs the executive branch of government, as well as who controls the legislature, attract a higher turnout than other elections.

*European Parliament research service 2019*

commitments by European political groups, to which the main political parties at the national level belong. Nevertheless, during a negotiation it can happen that debates are passionate and mobilise citizens around specific themes.

**- The inadequacy of the European Union’s political powers**, which makes it very difficult to comprehend the stakes of the election and leads most political parties to treat it as a secondary election. The day the European Union resolutely enters the political arena, voters would probably turn out in greater numbers to vote.

## 2. A determined legislator

The 2014-2019 legislature has been very productive, fruitful and intense. From a legislative point of view, most observers perceive the glass to be full, except in areas where Parliament’s competences are almost non-existent, where national sovereignty is at stake, such as in foreign and security policy, or in certain areas of Economic and

Monetary Union. But even where Parliament has no formal power, it has set out guidelines.

However, there remains an anomaly in the system that allows one of the two co-legislators, the Council, to refuse to act (as in case of the Dublin Regulation), which limits the Union’s ability to legislate in certain areas.

### 2.1 Trailblazer for 21st century issues

The following items show how the European Parliament has developed pioneering legislation on emerging 21st century issues.

- **Climate and energy package**

On 13 November 2018, the European Parliament adopted binding targets for renewable energies, an indicative target on energy savings and a regulation on the governance of the Energy Union.

For Michèle Rivasi, MEP from the Greens/EFA group, “it is the most important law adopted in this legislature”, a “historic” event.

**FIGURE 2 ■ Activity in EP plenary sessions in the eighth term so far (July 2014 - December 2018)**



The two years of negotiations were sometimes difficult, as national governments did not want to go as far as the EP.

Each Member State must now submit an integrated 10-year national energy and climate plan by 31 December 2019 for 2021-2029 and every ten years thereafter. The European Commission will present its recommendations in June, and the Member States will have to take them into account before adopting their own national plans at the end of this year.

By 2030, the European Union's energy efficiency will have to improve by 32.5%, while the share of renewable energy will have to amount to at least 32% of the EU's gross final consumption.

Parliament has also been more ambitious than the Commission and the Council in reducing CO2 emissions from vehicles and lorries by 2030.

Overall, the European Parliament has always proposed higher targets on energy and climate change than those proposed by the Commission or voted on by the Council. MEPs have thus played a role in increasing the European Union's ambition to fight climate change and manage the energy transition.

These votes came after the reform of the carbon market, the agreement on the effort sharing regulation, the inclusion of forests and land in the EU's carbon footprint and the adoption of the Energy Performance Directive.

- **Copyright**

On 26 March 2019, after two years of hard negotiations on the Copyright Directive, the European Parliament concluded a legislative process that satisfied its demands to obtain better remuneration for journalists, publishers, and artists. It includes an obligation for multinational technology companies ("GAFA") to contribute financially.

The objective was to adapt European Union copyright to the digital age and to better protect rights holders, such as creative artists and press publishers. This idea is contested by those defending free distribution on the Internet.

Around this opposition, heated debates took place, including frantic lobbying by the GAFAs, which, despite the considerable resources they invested, did not obtain what they wanted.

European political groups were strongly divided and national cleavages often proved to be more important than partisan ones.

TABLE 1 ■ CO2 emissions reduction by 2030 for newly registered

	CARS	VANS	LORRIES
<b>Commission</b>	30%	30%	30%
<b>Parliament</b>	40%	40%	35%
<b>Council</b>	35%	30%	30%
<b>Agreement</b>	37,5%	31%	30%

TABLE 2 ■ 2030 target for renewables

PROPOSALS	
<b>Commission</b>	At least <b>27%</b> of EU energy from renewable sources in final consumption by 2030
<b>Parliament</b>	Binding EU target of <b>35%</b> RES in final energy consumption by 2030, including a <b>12%</b> share of RES in transport in each Member State.
<b>Council</b>	At least <b>27%</b> of EU energy from renewable sources in final consumption by 2030
<b>Agreement</b>	Renewables must make up <b>32%</b> of energy consumed by 2030.

TABLE 3 ■ 2030 target for energy efficiency

PROPOSALS	
<b>Commission</b>	Binding target of <b>30%</b> of EU energy efficiency by 2030
<b>Parliament</b>	Binding target of <b>40%</b> of EU energy efficiency
<b>Council</b>	Indicative EU-level energy efficiency target of at least <b>27%</b>
<b>Agreement</b>	Indicative EU-level energy efficiency target of <b>32,5%</b> by 2030.

The Commission and a majority in the Council were generally on the side of the beneficiaries, but part of the European Parliament, which did not prove to be a majority, contested the idea of binding regulation.

The European Federation of Journalists welcomed the European Parliament's adoption of the directive, highlighting "key provisions for the information sector and authors, including a right for journalists to a share of the income generated online through their work."<sup>4</sup>

- **GDPR (General Data Protection Regulation)**

The General Data Protection Regulation (GDPR) is the reference text for the protection of personal data. It strengthens and unifies data protection for individuals within the European Union with a view to establishing a legislative framework that is better adapted to new digital data.

After four years of legislative negotiations, it was finally adopted by the European Parliament on 14 April 2016 and has been in force in all Member States since 28 May 2018.

The European Parliament has fought throughout this period to build consensus and strengthen protections. It set strict data protection requirements, despite significant lobbying of both governments and EP political groups by industry, including the GAFAs and other stakeholders of "big data".

The level of protection that has been achieved is now the highest standard in the world and is compatible with technological and economic development. The new European rules replace a patchwork of 28

different national policies that transposed the preceding 1995 directive.

It is noteworthy that three days before the directive entered into force, Facebook's CEO had to appear at a closed hearing in the European Parliament to discuss the scandal of data stolen by consulting firm Cambridge Analytica, which affected 2.7 million users.

In the field of information exchange for police and judicial purposes, the European Parliament has also obtained European standards on information exchange, often in the face of reluctant Member States. This directive was adopted by 621 votes to 10 with 22 abstentions.

## 2.2 An assembly that protects citizens

- **Posted workers**

On 29 May 2018, the European Parliament voted on the revision of the 1996 Posted Workers Directive. With 456 votes in favour, 147 against and 49 abstentions, the revision of this directive was largely supported by a majority coalition formed by the EPP and S&D, as shown by the report co-written by Elisabeth Morin-Chartier (EPP) of France and Agnes Jongerius (S&D) of the Netherlands.

The statements made by the latter during the adoption of the text illustrate the compromise that was reached. The two MEPs highlighted a step "towards a more social Europe with healthier competition between companies and better rights for workers"<sup>5</sup> and towards "the creation of a social Europe that protects workers and ensures that competition is fair."<sup>6</sup>

The previous directive, adopted in 1996, allowed companies to employ posted workers

4. Policy Brief Berlin 15.4 PJ Dittrich Copyright Reform.

5. Cf. « [Détachement des travailleurs: vote final sur l'égalité de rémunération et les conditions de travail](#) », Elisabeth Morin-Chartier

6. Cf. « [Détachement des travailleurs: vote final sur l'égalité de rémunération et les conditions de travail](#) », Agnes Jongerius

by paying social security contributions in the country of origin, which lead to “social dumping”, particularly between Eastern and Western European countries. While the pay gap between employees in different Member States was only 1 to 3 in 1996, the enlargement of the Union had increased it to a ratio of up to 1 to 10. A reform of the Posted Workers Directive had therefore become necessary.

By stating that “the posting of workers is by definition a cross-border issue, which would therefore fall within the competence of the EU and not the Member States,” the European Commissioner for Employment, Marianne Thyssen, had in March 2016 therefore proposed a reform in three areas: “the remuneration of posted workers (“equal pay for equal work”), the rules surrounding the posted work of temporary workers (same conditions as a local worker for a worker posted by a cross-border temporary agency) and long-term posting (a limit of 24 months for the duration of the posting).”<sup>7</sup> Negotiations began in the Council between labour ministers of EU Member States and the European Parliament.

In March 2018, a compromise was reached between the two institutions. By limiting postings to 18 months, the Council achieved its goal (Parliament had asked for 24 months). The Council also managed to exclude road transport from the new directive. On the other hand, the European Parliament, thanks to its perseverance, succeeded in imposing the application of the law within a period of 2 years (the Council had asked for a period of 4 years).

Parliament also placed great emphasis on respect for collective agreements and on the principle of “equal pay for equal work in the same workplace.”

- **Frontex budget**

Frontex is the European border and coastguard agency. Its main role is to help the Member States of the European Union and the Schengen Area to secure their external borders, and, more particularly, to control illegal immigration.

Since December 2016, and under pressure from the European Parliament, it has a rapid reaction reserve of 1500 agents at its disposal.

But the difficulty of optimising the work of Frontex stems from both from national sovereignty (many Member States are reluctant to accept the idea of a “European” body) and from a problem of effective staff resources.

Several countries were not in favour of seeing agents with “European” powers deployed on their territories.

Thanks to vote in the European Parliament on 17 April 2019 that followed very speedy negotiations under the co-decision procedure, the objective to provide Frontex with 10,000 staff by 2027 was achieved. At the same time, Frontex also obtained the power to hire its own agents: 1000 out of 5000 by 2021 and the remainder provided by Member States.

While the agreement on border protection has been adopted, the Commission’s other proposals in the field of legal migration (“Blue Card”) or asylum, including the failed attempt to build a coherent and united asylum policy in recent years, are in deadlock. Divergences between Member States on these issues remain strong in the Council, despite the stated search for a balance between responsibility and solidarity.

<sup>7</sup>. « Qu’est-ce que la directive sur les travailleurs détachés ? », May 2018



- **Trade defence instruments**

The European Parliament has adopted several measures to defend the Union's interests against more aggressive trading powers, in particular China.

Most notably, on 30 May 2018 it adopted a reform of trade defence instruments, allowing higher and faster customs duties to be imposed on products imported at an artificially low price.

The new rules will allow an imported product to be taxed beyond the "lesser duty" rule if a raw material or energy source that has contributed to at least 17% of its production cost has distorted competition, in particular in the importing country.

The EU becomes the first WTO member to include social and environmental standards in its calculations when it decides to impose anti-dumping duties. The European Parliament fought particularly hard on this point. It also defended provisions in favour of SMEs.

The Parliament has set up a European instrument to screen foreign direct investment (FDI) for security purposes, in order to protect strategic sectors. MEPs approved this measure with 500 votes in favour, 49 against and 46 abstentions on 14 February 2019, creating the very first European system that supports this type of screening.

European Parliament negotiators have added water, health, defence, media, biotechnology and food safety to the proposed sectors.

**Beyond its more narrowly defined legislative power, Parliament's political influence should also not be disregarded.**

This was evidenced by the **vote on the triggering of Article 7 on the rule of law in Hungary.**

By a very large majority – more than two thirds of the votes cast – the European Parliament recommended to the Council on 12 September 2018 that an exceptional procedure (Article 7 of the Treaty on European Union) should be activated for a "clear risk of a serious breach of the rule of law" in Hungary.

This is the first time that Parliament has so clearly addressed a Member State, which, in its view, has crossed a red line and distanced itself from the founding values of the European Union.

Article 7 had only been triggered once since its inception, when the Commission reprimanded Poland in December 2017. Ultimately, the process can go so far as to deprive a Member State of its right to vote in the Council.

It is also the first time that the EPP group has faced a major challenge, as the Hungarian Prime Minister's party is a member of their political family. A narrow majority in the group (115 out of 218) supported the initiation of the procedure, including the group's chairman, Manfred Weber, the candidate for the presidency of the Commission.

Admittedly, the vote is not binding. But Parliament's strong voice on these issues increasingly puts the governments that are concerned under an obligation to explain themselves or face the penalty of sanctions.

It is possible this voice played a role in the EPP's decision in March 2019 to suspend the membership of Viktor Orban's Fidesz party, which was an EPP member, until further notice.

## 3. A respected supervisor of executive power

### 3.1 Scrutiny of the Commission

A very large part of Parliament's supervisory power is exercised over the European executive, the Commission, which has an exclusive right of initiative, is responsible for implementing policies and is the guardian of the Treaties.

Parliament has a nuclear weapon, **the possibility of censuring the European Commission**. To date, such a motion has never been adopted, but the Commission chaired by Jacques Santer had to resign in 1999, under threat of censure, following allegations of mismanagement.

Since the Lisbon Treaty, Parliament has **formally elected the President of the Commission** and the European Council has to "take into account the elections to the European Parliament" before proposing a name.<sup>8</sup> This procedure goes even beyond the power of control.

In 2014, most European political parties interpreted this provision by proposing "**Spitzenkandidaten**" (lead candidate) to represent their campaigns. This was an endorsement of the idea that the head of the list from the winning party in the EP election should be proposed by the European Council for the Commission Presidency. Thus Jean-Claude Juncker, head of the EPP list, was nominated and elected after striking a political agreement with the second largest force in Parliament, the S&D group (neither EPP nor S&D gained a majority).

Although it is somewhat contested, this idea had two aims: First, opening the European Council's closed doors and making the nomination process of the European Union's

leaders more transparent by giving a greater role to the parliamentary process. Second, making citizens aware of the importance of the vote by personalizing it. The effectiveness of this procedure is unclear: on the one hand, in a multi-party election with a single round, the winning candidate may not necessarily obtain a majority; on the other hand the personalization of the vote could improve voter turnout. Nevertheless, it should be noted that a majority of MEPs decided to repeat this process once again in 2019. In fact, a parliamentary session on Article 17(7) of the Lisbon Treaty will be required.

Most political families have thus proposed "Spitzenkandidaten". The ALDE group, however, has proposed an original "Team Europe", composed of seven leading candidates. Moreover, far-right parties have not participated in the exercise, neither in 2014 nor in 2019.

But the situation in 2019 could be still more complex. Even if the EPP comes out on top, as polls predict, its candidate (if proposed by the European Council) would still have to succeed in obtaining a majority in Parliament.

However, the seats gained by EPP and PES will probably not suffice. A coalition could then be formed to agree on a name and to consider a formal coalition contract on a common political basis. The European Council could try to retake control if the agreement proves difficult, even though the nomination for the President of the European Central Bank's is scheduled to take place during the same period.

While this process may appear to be a negotiation for the distribution of beneficiaries and functions for the coming years, the fate and political profile of the Union's main institutions could be looming behind it.

<sup>8</sup> Article 17(7) of the Lisbon Treaty: "Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure."

The probable delay of Brexit and the participation of the British in the European elections, as foreseen at this stage, may also have an impact on the constitution of Parliament and the election of the next President of the Commission. If the latter vote is postponed until an agreement is reached that would see the British Members leave Parliament, it would be tantamount to prolonging the current Commission.

**In terms of timing, the first step is the election of the President of the European Parliament at the constitutive session of the new European Parliament in July, followed by the election of the President of the Commission at the second session in July.**

Once the President of the Commission has been elected, an intense period begins during which **candidates for the posts of Commissioners are auditioned by Parliament**, a procedure that was initiated in 1994.

Such a procedure is unimaginable in the Member States of the European Union (unlike in the United States). Being auditioned and evaluated in public before taking up a position of responsibility is a democratic first in Europe, especially since the confirmation hearings are very demanding.

As a result, Parliament in the past rejected several Commissioners that had been nominated. In 2004, Italian Rocco Buttiglione, nominated for the “justice and home affairs” portfolio, was rejected by the parliamentary committee on civil liberties, following his controversial statements on homosexuality, the role of women in society, and the treatment of refugees. A Latvian candidate, Ingrīda Ūdre, also had to give up her nomination and László Kovács (Hungary) had to pass a confirmation hearing for a portfolio different from the one he was initially nominated for.

In 2009, Bulgarian nominee Roumiana Jeleva, had to withdraw his nomination after conflicts of interest were highlighted by the European Parliament.

In 2014, Alenka Bratušek from Slovenia did not convince Parliament, and anticipated her defeat at the hearing by withdrawing a few hours later. Tibor Navracsics of Hungary also failed to convince on his commitment to Europe or on the “citizenship” aspect of his portfolio; as a result, citizenship was excluded from his future missions.

Finally, the Spaniard Miguel Canete was confirmed, but the “sustainable development” portfolio was withdrawn from him.

After these steps, the College as a whole is submitted to a vote of confidence by Parliament.

### 3.2 Beyond the control of the Commission

- **Relations with the European Council and the Council**

The President of the European Council presents a report to Parliament on the results of the last Council, and a debate follows. Similarly, the President of the Council of the Union participates in a plenary debate on his programme at the beginning and end of his term of office. Members of Parliament may also submit written or oral questions to the Council.

The President of the European Parliament intervenes at the beginning of each European Council. Depending on the agenda, her or his presence may be extended throughout the meeting. It can be accompanied by lively debates, as President Borell (2004-2007) experienced in his interaction with Vladimir Putin at the informal European Council in Lahti in 2006 on a point about human rights.

In recent years, parliament developed the custom of organising major debates with Heads of State and Government from the Member States of the European Union. Thus,

several presidents of the French Republic, who do not have the opportunity to debate with their own Parliament, have visited the chamber, and answered for long hours all questions from the different political groups. In 2015, President Hollande and Chancellor Merkel participated in this exercise side by side. It is unfortunate that the French media in particular has not taken a greater interest.

- **Other powers of nomination**

The EP must be consulted before the President, Vice-President and members of the ECB's Executive Board are appointed by the European Council. In the event of a plurality of applications, the EP shall organise a hearing (in camera) of the candidates in order to be able to indicate an order of preference to the Council.

The President of the European Central Bank addresses the plenary of the European Parliament four times a year, as well as the members of the relevant committee.

The EP must be consulted before the appointment of the members of the Court of Auditors.

The EP has also obtained the right to audition the future ambassadors of the European Union in third countries.

The EP elects the European Ombudsman.

In exercising this power over appointments, Parliament is also fighting for more gender equality within the institutions.

- **Committees of inquiry and Special Committees**

**The EP may set up committees of inquiry to investigate allegations of misconduct and maladministration in the application of Union law that was committed by an institution of the Union or of the Member States. It may also set up special temporary**

**committees to deal with specific problems, in particular when scandals or abuses with potentially large-scale consequences have occurred.**

It has made greater use of this instrument during the current term of office. Following the **"Luxleaks" scandal that was revealed in November 2014, the EP set up the TAXE committee in February 2015 to examine abusive tax practices in the EU, followed by the TAX2 committee to monitor the implementation of TAXE's work, as well as the TAX3 committee on financial crime, fraud and tax evasion.**

The publication of the so-called "Panama papers" led to the creation of a committee of inquiry on tax havens (PANA).

A committee of inquiry was set up on automotive emissions measurements (EMIS) in the aftermath of the "Dieselgate" scandal.

A special committee on pesticides (PEST) has also been set up to investigate the authorisation of pesticides in Europe.

The detailed recommendations and conclusions of all this work feed into new proposals from the Commission, which they stimulate, and also exert useful pressures on the Member States.

**The example of the TAXE committees is illustrative in this respect. Their influence was instrumental.**

The work of Parliament obviously suffers from having only a consultative role, as unanimity in the Council remains the rule on all tax matters. In this respect, Parliament rather plays the role of a sounding board for the court of public opinion on Luxleaks, Offshore leaks, Panama papers, and others. It thus contributes to maintaining strong pressure on national governments, and this pressure has had undeniable effects. The Netherlands, fearing to be singled out, has largely reformed its tax system, as have Luxembourg and to some extent Ireland.

The practice of tax rescrits (agreements between an administration and a company that allow a government to directly validate a tax structure), a major piece of unfair tax competition in the Union, has considerably decreased thanks to the joint efforts of the Commission and Parliament, and the entry into force of legislation on cooperation between tax administrations.

The work of the special committees (TAXE, TAX2, PANA and then TAX3) has also had the great advantage of giving tax issues a good position on the European agenda, and has thus greatly facilitated the adoption of other important tax policies. While some are linked to the work of the OECD,<sup>9</sup> others are only internal to the Union, such as the Action Plan on VAT (aimed at combating fraud, in particular the so-called “carousel fraud” which could cost the European Union about 50 billion euros per year), or other projects with less success such as CCCTB (common consolidated corporate tax base).

Parliament certainly does not yet have direct legislative power in this area, as the sovereignty of Member States in tax matters is frequently recalled in the various reports. On the other hand, as these special committees have “institutionalised” public outcry, it has succeeded in giving itself a real role and has now become an essential part of any decision-making on tax matters in the Union. Parliament has even established itself recently as a major force for new proposals: an amendment made by Alain Lamassoure (chairman of the TAXE and TAX2 committees) as rapporteur for the draft directive on the CCCTB developed the concept of a digital permanent establishment. This made the European Parliament the first international institution to propose a credible solution for taxing GAFAs and incorporating contemporary digital models into a renewed and adapted fiscal framework. Since then, the Commission has taken up the European

Parliament’s proposals to a very large extent (cf. the Commission proposal for the taxation of a digital permanent establishment) and the OECD is drawing inspiration from them in the context of ongoing negotiations on the taxation of digital technology.

- **Parliamentary Research Service**

The European Parliament has also set up its own research service, unlike most national parliaments, which are often dependent on the executive for expertise.

## 4. An essential channel for citizen power

It is common to compare the European institutions to a “technocratic monster”. It is also common to denounce their lack of transparency.

Such criticisms should be qualified, especially with regard to the European Parliament.

Members of Parliament are also involved with their constituencies. Even with national lists (this voting method was restored in France for the 2019 elections), the geographical origin of MEPs is typically important.

Parliamentarians and the European Parliament are also very active on social media, which allows citizens to intervene directly in the decision-making process.

For example, MEP David Martin (United Kingdom, Labour Party), rapporteur on the CETA agreement, received so many messages that criticized insufficient levels of protection in the agreement that he decided to change his initial position.

Parliament itself is an open house for citizens, with no less than 1 128 000 visitors

<sup>9</sup>. For example, the directive setting up various mechanisms to combat tax evasion, or directives on the automatic exchange of information in tax matters (the latter focusing on the role of intermediaries in the creation of aggressive cross-border tax arrangements).

**FIGURE 3 ■ Working with partners and citizens**

The European Parliament has regular meetings with counterparts from the Member States' national parliaments, in particular at committee level. The Parliament's committees also regularly seek direct input from experts and stakeholders in public hearings, to feed their deliberations on specific topics. Citizens also have various means to make contact with the Parliament, either by visiting the institution, raising questions with the Citizens' Enquiries Unit (Ask EP), or delivering a petition for consideration by the Petitions Committee. The figures below give a flavour of these activities in the eighth term so far, from July 2014 to December 2018.



between July 2014 and December 2017, and all its meetings (except those of political groups, and interinstitutional legislative dialogues) are public (such as parliamentary committees, plenary sessions, hearings, etc.).

It works in 24 languages, which allows all Members to understand debates and read texts in their mother tongue. In the European Parliament, multilingualism is a reality.

**The role of lobbies is also often denounced, as is the lack of transparency of European institutions.**

Some political parties and many actors outside the European Parliament denounce the dominant role of lobbies, implying that MPs bow to private and corporate interests, and therefore are subject to a form of corruption. In any democracy, everyone must be able to express their point of view and transmit their expertise on a given issue: interest groups, citizens' groups, NGOs, companies, Member States' administrations, regions, etc. The way European legislation is drafted, first of all on the basis of consultation procedures, also largely explains the very early presence of representatives of the various stakeholders, which is often considered excessive.

The example of the negotiation on copyright is illustrative: despite the logistical power of the GAFAs, which flooded Parliament with their lobbying and mobilized considerable

resources to prevent any legislation affecting their business, a majority of MEPs opposed their position.

In short, the European Parliament can listen to lobbies without necessarily giving in to them.

On 31 January 2019, in the context of changes to its rules of procedure, Parliament adopted an amendment at the initiative of the Greens, that obliges its elected representatives to be even more transparent towards lobbies.

The institution's internal rules now require "rapporteurs and committee chairmen to publish, for each report, a list of all planned meetings with interest group representatives that fall within the scope of the transparency register". The EPP Group had requested a secret vote on this amendment. It should also be noted that the Rassemblement National in France voted against the text, stating that it "infringes on the freedom of the elected representative" (Nicolas Bay).

The transparency register, created by the Commission and Parliament in 2011, lists the lobbies that have privileged access to these institutions in exchange for updated information on their activities. More than 11 000 organisations have registered so far. While two thirds of them represent commercial interests, another third are NGOs, consumer law associations, regions, governments, and others.

However, this register is not binding. So far, the financial declaration is only partial and law firms are not included among the organizations required to register.

Finally, it is worth mentioning the existence of the **Committee on Petitions** in the European Parliament. It has registered some 6400 petitions since 2014, and processed citizens' complaints, requests and observations on the application of European legislation. It acts as a mediator between petitioners and Member States or EU institutions in order to solve a particular problem. This has, for example, included areas such as precarious employment practices in the EU, the rights of people with disabilities, non-discrimination of minorities, children's rights, Notre Dame des Landes airport in France, "accidental Americans" (victims of the extraterritoriality of US tax legislation).

However, petitions are not always followed up, and data on the opening of infringement proceedings or consultation with petitioners should be made available to allow for a precise assessment.

In the future, the European Parliament will also have to debate the reform of the European Citizens' Initiative (ECI), an instrument created by the Lisbon Treaty that had only mixed results so far.

In short, it is a paradox that the European Union is accused of a democratic deficit, while the European Parliament is undoubtedly one of the political institutions that is most in touch with its citizens.

Even more than a Parliament of party politics, it was and continues to be a **parliament of civil society**, which relays the concerns of its citizens, for example on environment issues. It therefore has an important role as an actor in a strengthened European democracy.

## 5. Towards a stronger and more modern Parliament

The European Parliament has reached its cruising speed with the more recent European Treaties. It has often acquired additional powers through innovations that have become the rule.

But can it further strengthen its influence and modernize its practices, and if so, how?

### 5.1 The limits of intergovernmental cooperation

In areas where national sovereignty is fully exercised, there is most often a lack of efficiency and democratic control at the European level: the Union's competences are limited, decisions are taken unanimously, and the European Parliament has therefore little power.

Moreover, crises in multiple domains (such as finance, migration, and Brexit) have marked the life of the European Union over the last ten years. Correspondingly, media attention has focused mainly on the European Council's debates on these subjects.

For example, in the policy areas of Home Affairs and Justice (asylum, legal migration, and the Dublin Regulation), the European Parliament has identified majority proposals that the Council did not take into account. Similarly, in the field of Economic and Monetary Union, for example concerning the euro zone budget, an agreement had been reached in the European Parliament, but this was not followed up in the Council (see in particular the Berès-Böge report, 13 February 2017).<sup>10</sup>

Only a reform of the Treaties would make progress in this respect. During the 2019-2024 parliamentary term, the European Parliament could take initiative in this area,

<sup>10</sup> Berès-Böge report, European Parliament, 13 February 2017

unlike during the previous parliamentary term. However, the Verhofstadt report presents some suggestions for possible developments and adaptations of the current institutional structure of the European Union.<sup>11</sup>

In the meantime, the European Parliament's supervisory powers could be exercised more forcefully. According to Mario Draghi, President of the European Central Bank, "It is to be hoped that accountability arrangements to hold EU institutions in check continue to be strengthened ... The role of the European Parliament is vital here. Of the institutions with a democratic mandate to exercise control, it is the only one with a European perspective." (Speech delivered at the University of Bologna on 22 February 2019).

## 5.2 The Lisbon Treaty, an underutilized toolbox

In a very large number of areas, the Lisbon Treaty offers opportunities that have not yet been exploited. The 10th anniversary of this Treaty in December 2019 could be an opportunity for the future European Parliament to relaunch the new Commission with this respect in mind.

The European Parliament's services have already identified all the articles of the Treaty that could be the subject of new initiatives.<sup>12</sup>

The Bresso-Brok report<sup>13</sup> also laid the groundwork for improving the functioning of the Union, making the most of the potential that the Lisbon Treaty can realise.

The current European Commission has recently made proposals to move to qualified majority voting in very sensitive areas such as taxation and social issues, through the use

11. [Verhofstadt report](#), European Parliament, 20 December 2016

12. [Unlocking the potential of the EU Treaties](#), January 2019.

13. [Bresso-Brok report](#), European Parliament, 9 January 2017

14. [Lamassoure report](#), European Parliament, 28 January 2019

of "passerelle clauses", which nevertheless require unanimity in the Council.

Similarly, the increased use of enhanced cooperation could be a lever for progress (see Alain Lamassoure's report on enhanced cooperation of 28 January 2019<sup>14</sup>).

## 5.3 The right of initiative for the European Parliament

This is a frequent demand, which is debated at the institutional level, because it would lead to the European Commission losing its monopoly on the right of initiative.

The European Parliament already has the possibility of formally asking the Commission to take initiatives on a particular subject and has introduced the concept of a "legislative initiative report". The future Parliament could, for a first time, explore areas where this right of initiative has not been sufficiently used. It could be more demanding of the Commission when examining its work programme and how the Commission is following up on legislative initiative reports.

Indeed, the natural inclination of the Commission leads it to frequently take up proposals from the Council. For example, in the area of digital taxation, the Commission had proposed a reform of corporate taxation, including for the digital economy. Following a Franco-German initiative on taxes for digital platforms, the Commission had to present a new proposal to remain in the loop on an inter-governmental initiative.

But wouldn't the European Parliament's real right of initiative consist of being able to propose new resources for the European Union's budget, or reforms of the Treaties?



## 5.4 Control of nominations

Parliament has already demonstrated its effectiveness in evaluating the nomination process of Commissioners. It also achieved that the Council can not rule against its opinion for appointments to the Banking Resolution Fund. The same will apply to European supervisory authorities. But the future Parliament should continue this trend of checking the qualifications necessary for the exercise of responsibilities, in addition to effective parity in nominations.

## 5.5 How can we make the work of the MEP, which is not properly recognised, better known to the public?

The major role of the European Parliament as a co-legislator has been highlighted above. However, the consultation meetings between the institutions, the so-called “trilogues”, are not transparent, which allows Council representatives to not make their positions public. On the contrary, the future Parliament, transparent in its own decision-making, should demand **full transparency of the trialogues**, which would allow for better visibility of the work of MEPs and improve knowledge of the respective positions of Member States.

In the future, MEPs will have to become increasingly active on social media and with constituents, and improve the diffusion of European issues into national political parties.

The role of parliamentary questions and their follow-up by the Commission also deserves consideration.

Finally, there are many specialised websites that measure the activity of MEPs. These are mainly based on quantitative criteria such as the creation of texts or their attendance in plenary session or committees. However, such criteria often do not reflect the reality

15. Giancarlo Vilella, e-democracy, on participation in the digital age, editions Nemos, 2019.

of Members’ activities, are insufficiently qualitative and do not take into account the type of responsibility exercised by Members, or their contact with the public. (A political group leader, for example, will not be well rated.) In the future, new and more objective methods should be defined for the evaluation of Members and an official website could be set up for this purpose.

Similarly, consideration could be given to the role of European political parties, in particular the question of direct public support, which has so far not been accepted.

As for the media, even if their situation varies between countries, it is often difficult for them to become interested in matters that are *a priori* technical and that go beyond national frameworks of politics, such as the search for compromise between parliamentarians, institutions and Member States, which requires a long time. Most often, European debates are seen through national lenses. Only the Europeanisation of politics and media, as well as an evolution of the Union’s competences, could ultimately contribute to the development of a European political discourse and citizenship.

All forms of participatory democracy, already very present in the European Parliament, should be encouraged. This also applies to e-Parliament initiatives and the use of new technologies.<sup>15</sup> Even if Parliament has for many years been strongly resonant on subjects of particular interest to citizens (e.g. environment and health), initiatives such as the Citizens’ Agoras could be relaunched. The resources could be increased to allow Parliament to continue being a pioneer in this field, particularly for young people.

Let us hope that the campaign for the European elections will make it possible to stimulate debate on the place of the European Parliament as a dynamic institution and democratic pillar of the European Union.

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