

# ACTIVITY REPORT

Developments and trends in the ordinary legislative procedure

**2 July 2019 – 15 July 2024**

(ninth parliamentary term)

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## FOREWORD

As Vice-Presidents for conciliation and Chair of the Conference of Committee Chairs (CCC), we closely monitor the application of the ordinary legislative procedure (OLP). During the ninth legislative term, the trend towards early agreements was confirmed and consolidated. In fact, there have been no third readings for over 10 years.

However, over the last five years Parliament has shown remarkable resilience and flexibility amid multiple crises. Our unique democratic and supranational institution managed to uphold democratic decision-making despite the restrictions imposed by the COVID-19 pandemic, and responded efficiently and swiftly to support Ukraine in defending itself against the Russian war of aggression. This was possible because of the strong will across political groups to overcome challenges, on the one hand, and the effective cooperation between committees, on the other hand. Being united in diversity became a reality. Parliament learnt important lessons through decision-making under extraordinary circumstances, growing even stronger as a result. A revision of the institution's Rules of Procedure aims at making the institution more resilient to crises and at a modern beginning with the start of the tenth term.

During the ninth term, more than 400 OLP acts were concluded and signed. Specifically, 24 acts were adopted to mitigate the consequences of Brexit and 35 acts in response to the COVID-19 pandemic. Additionally, 30 legal acts were adopted to support Ukraine. Significant legislative packages were also concluded, including the multiannual financial framework (MFF), the implementation of the Green Deal through the ambitious Fit for 55 package, and the Migration and Asylum Pact. Last but not least, the Women on Boards Directive was finalised after being blocked in the Council for 10 years.

We would like to use this opportunity to thank all Members and staff for their tireless efforts to upgrade Parliament's working methods, aiming at an even more efficient institution while upholding its principles and providing for democratic scrutiny in European decision-making.

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## LIST OF ABBREVIATIONS

AFCO	Committee on Constitutional Affairs
AFET	Committee on Foreign Affairs
AGRI	Committee on Agriculture and Rural Development
AMLA	Anti-money-laundering Agency
BUDG	Committee on Budgets
CCC	Conference of Committee Chairs
CJEU	Court of Justice of the European Union
CONT	Committee on Budgetary Control
CoP	Conference of Presidents
CULT	Committee on Culture and Education
DEVE	Committee on Development
ECON	Committee on Economic and Monetary Affairs
EMPL	Committee on Employment and Social Affairs
ENO	Early non-objection
ENVI	Committee on the Environment, Public Health and Food Safety
EU	European Union
FA	Framework Agreement on relations between the European Parliament and the European Commission
FEMM	Committee on Women's Rights and Gender Equality
IJA on BLM	Interinstitutional Agreement on Better Law-Making
IMCO	Committee on the Internal Market and Consumer Protection
INTA	Committee on International Trade
ITM	Interinstitutional Technical Meeting
ITRE	Committee on Industry, Research and Energy
JURI	Committee on Legal Affairs
LEGI	Legislative Affairs Unit
LIBE	Committee on Civil Liberties, Justice and Home Affairs
MFF	Multiannual financial framework 2021-2027
NGEU	NextGenerationEU
OLP	Ordinary legislative procedure
OR	Own resources
PECH	Committee on Fisheries
PETI	Committee on Petitions
REGI	Committee on Regional Development

REGDIA	Register of delegated and implementing acts
RoP	Rules of Procedure
RPS	Regulatory procedure with scrutiny
TRAN	Committee on Transport and Tourism
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UKCG	UK Coordination Group
UP	Urgent procedure

## KEY MESSAGES

Parliament showed resilience and upheld its institutional role as co-legislator throughout various crises. It enabled speedy decision-making by adapting its rules for exceptional and unforeseeable circumstances, including those on remote participation, while safeguarding its prerogatives.

### *Fast-track decision-making*

For Brexit, COVID-19 and the Russian war against Ukraine the use of the urgent procedure (UP) and other fast-track procedures allowed Parliament to function under extraordinary circumstances. However, Members were concerned about the unprecedented use by the Commission of Article 122 TFEU (14 proposals between 2020 and 2023), limiting parliamentary oversight and transparency.

### *Parliamentary reform*

The crises initiated a reflection process on how to make Parliament's functioning crisis-proof and modern, while also applying experience gained during the various crises. The reform covered a broad range of issues. It led, inter alia, to a revision of the Rules of Procedure (RoP)<sup>1</sup> with the aim of ensuring better cooperation among committees. The revision entered into force at the start of the tenth term.

### *First readings, rejections and withdrawals*

Several trends already observed in previous terms were confirmed and sometimes reinforced during the ninth term.

Firstly, out of the 415 OLP files adopted in the ninth term, 86 % were concluded at first reading, confirming the trend to reach increasingly fewer agreements in the second-reading phase. The so-called third reading has not been used since 2013. During the ninth term, there were no more second-reading agreements, only early second readings.

Secondly, within Parliament, the distribution of Commission proposals confirmed the trend of committees with a heavy legislative workload: ENVI, ECON, LIBE and TRAN.

Thirdly, an increasing number of Commission proposals was either part of a package or broad and cross-policy in nature, falling under the competences of several committees. Examples were the Fit for 55 and the asylum and migration packages. In response to this trend, the rules on committee cooperation were reformed to ensure Parliament's efficiency in the future.

Compared to these foreseeable trends, Parliament was faced with the rather new phenomenon of an increasing number of agreements reached in trilogues that still required further negotiations in order to obtain the necessary majority in the Council. The so-called social security file is exceptional in this respect as two provisional

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<sup>1</sup> European Parliament decision of 10 April 2024 on amendments to Parliament's Rules of Procedure implementing the parliamentary reform 'Parliament 2024', Texts adopted, P9\_TA(2024)0176.



agreements were rejected in the Council and the file is included under unfinished business for the tenth term.

The Commission has withdrawn 43 OLP proposals, some of them upon Parliament's request.

### *Interinstitutional negotiations*

Trilogue negotiations remained the co-legislators' preferred framework for coming to an agreement on Commission proposals under Article 294 TFEU. In total, 973 trilogues took place during the ninth term. Due to the crises and fast decision-making, however, the Council and Parliament reached an exceptionally high number of agreements – 118 – without trilogues.



*Trilogue on Single Market Emergency Instrument (SMEI) on 1 February 2024 © European Union 2024 – source: European Parliament*

Interinstitutional technical meetings were used increasingly to meet the challenges posed by complex and very technical proposals and to increase the efficiency of negotiations.

### *Transparency and access to documents*

During this term, EU case-law was boosted through a further judgment, in which the Court of Justice of the European Union (CJEU) maintained its approach of ensuring that citizens have broad access to documents held by the institutions. Following this judgment, the number of requests for access to documents related to interinstitutional negotiations increased. All requests were approved following an individual analysis in line with established case-law.



### *Multiannual financial framework (MFF)*

The interinstitutional negotiations for the 2021–2027 MFF Regulation<sup>2</sup> and related programmes started already during the 8th term and took place in special circumstances, which included the European Parliament elections in 2019, Brexit and the COVID-19 pandemic. Parliament successfully navigated this situation of constant change with cross-committee cooperation and innovative solutions. Under the von der Leyen Commission, the Green Deal was adopted in 2019 in response to obligations ensuing from the Paris Agreement. In 2020, the pandemic triggered the adoption of NextGenerationEU in order to relaunch the economy. By the end of the ninth legislative term, 41 MFF-related proposals were adopted as legal acts.

### *Delegated and implementing acts*

The use of delegated and implementing acts continued to be controversial in many legislative negotiations. Nevertheless, Parliament was able to achieve some important accomplishments regarding the use of delegated and implementing acts in the ninth term, in particular regarding the MFF programmes. Furthermore, a high number of early non objections (ENOs) was adopted. Measures under the regulatory procedure with scrutiny (RPS) were still received by Parliament.

### *International agreements*

Parliament worked intensely on particularly important agreements during the ninth term, setting up ad hoc structures and striving for inclusive and strong positions. However, over a quarter of all agreements during the term were provisionally applied before Parliament could vote on consent, which effectively eroded its prerogatives.

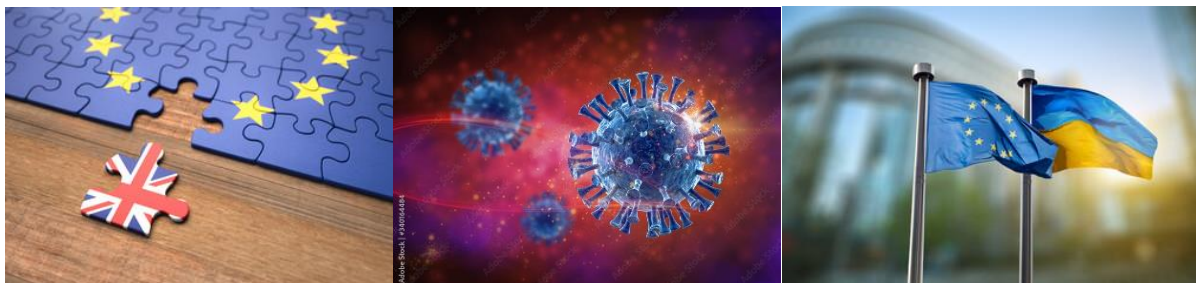
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<sup>2</sup> Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027, OJ L 433I, 22.12.2020, p. 11.

# 1. Delivering in crises, reforming for the future

## 1.1 Parliament in times of crises

The ninth parliamentary term was special for the European Parliament in many ways. Brexit, the COVID-19 pandemic and Russia's war against Ukraine have had a lasting effect on its working methods and resulted in several reforms.



First of all, Parliament managed to uphold its institutional role as co-legislator throughout the different crises. It was not easy to bring together over 700 Members and take decisions quickly. There was a clear need for speedy action, which therefore sometimes compromised full democratic scrutiny.

Against this backdrop, Parliament displayed flexibility and resilience while safeguarding its powers. Overall, Parliament managed 'to continue its activities, perform its duties and exercise its legislative, budgetary, scrutiny and oversight prerogatives under the Treaties'<sup>3</sup> through innovative measures, as pointed out in its resolution on the lessons learnt from the COVID-19 pandemic, and as also mentioned in the mid-term LEGI Activity Report<sup>4</sup>. Parliament showed that it could be fast in its decision-making when needed.

### COVID-19's impact on parliamentary work

With the onset of the COVID-19 pandemic in 2020, Parliament's legislative work and functioning had to be adapted.

In-person, semi-remote and remote plenary and committee meetings<sup>5</sup> needed to be organised and regulated.

For interinstitutional negotiations, until the end of 2021, the option of semi-remote trilogues predominated. The presence of the main negotiators in the same room, supported by key staff and joined by others remotely, was the basis for building trust between those involved and achieving successful negotiations. The Conference of

<sup>3</sup>European Parliament resolution of 12 July 2023 on the COVID-19 pandemic: lessons learned and recommendations for the future, Texts adopted, P9\_TA(2023)0282.

<sup>4</sup>Mid-term Activity Report (2019-2021).

<sup>5</sup>For the purpose of this report, the qualification 'remote' will be used for trilogue meetings where the main actors from the Council (presidency representatives), the Commission (Commissioner or high-level staff members) and Parliament (Committee Chair, rapporteur) were not present in the room. The qualification 'semi-remote' will be used for trilogues in which the main negotiators were present in the room, while other participants, such as staff or shadow rapporteurs, were connected remotely; the qualification 'in person' refers to trilogue meetings where no remote connection was available.

Presidents (CoP) therefore decided, on the basis of recommendations by the CCC and in agreement with the Council, that trilogues and interinstitutional technical meetings should only take place in person once precautionary sanitary measures were lifted.

### **Parliamentary work related to Ukraine**

Throughout the term, Parliament has actively supported Ukraine in resisting the Russian invasion. The EU's unwavering commitment to standing by Ukraine and its people against Russia's war of aggression is reflected in the 29 related legislative files. These files cover a variety of issues, including ammunition, macro-financial assistance and cohesion and migration policy in support of Ukraine, as well as legislation on the non-recognition of Russian travel documents. Parliament overwhelmingly supported the approval of this legislation, which includes the Regulation on financial resources under the Asylum, Migration and Integration Fund<sup>6</sup>, which was adopted by 575 votes in favour to 4 against, with 3 abstentions.

Parliament adopted ENO procedures in three out of nine proposals for delegated acts. It also gave consent to five international agreements in relation to the war.

The crises initiated a reflection process on how to make Parliament's functioning future-proof. Triggered by Presidents Sassoli and Metsola, recommendations for parliamentary reform were developed and endorsed by the CoP. In this context, the CCC was tasked with the development of guidelines and recommendations relevant for the work of the committees. Where appropriate, Parliament's RoP were revised. The amended RoP came into force at the beginning of the tenth term. The reform covered a broad range of issues that are also relevant for the OLP and interinstitutional negotiations, as will be set out in this report.

### **Framework Agreement on relations between the European Parliament and the European Commission (FA)<sup>7</sup>**

As part of the reform process, an assessment of the FA was initiated for the first time since its conclusion in 2010. The FA sets out provisions on cooperation between the two institutions on matters relating, inter alia, to Parliament's input into the Commission work programme and the joint declaration on EU legislative priorities.

## **1.2. Need for urgent and exceptional measures**

During the ninth term, the multiple crises required fast decision-making. Consequently, Parliament became acquainted with flexible working methods such as fast-track and UPs (Rule 170). The application of Rule 170 was acceptable because of a shared understanding of the clear need to mitigate the crises. However, there was also a strong wish to return to 'normal' working methods as soon as possible.

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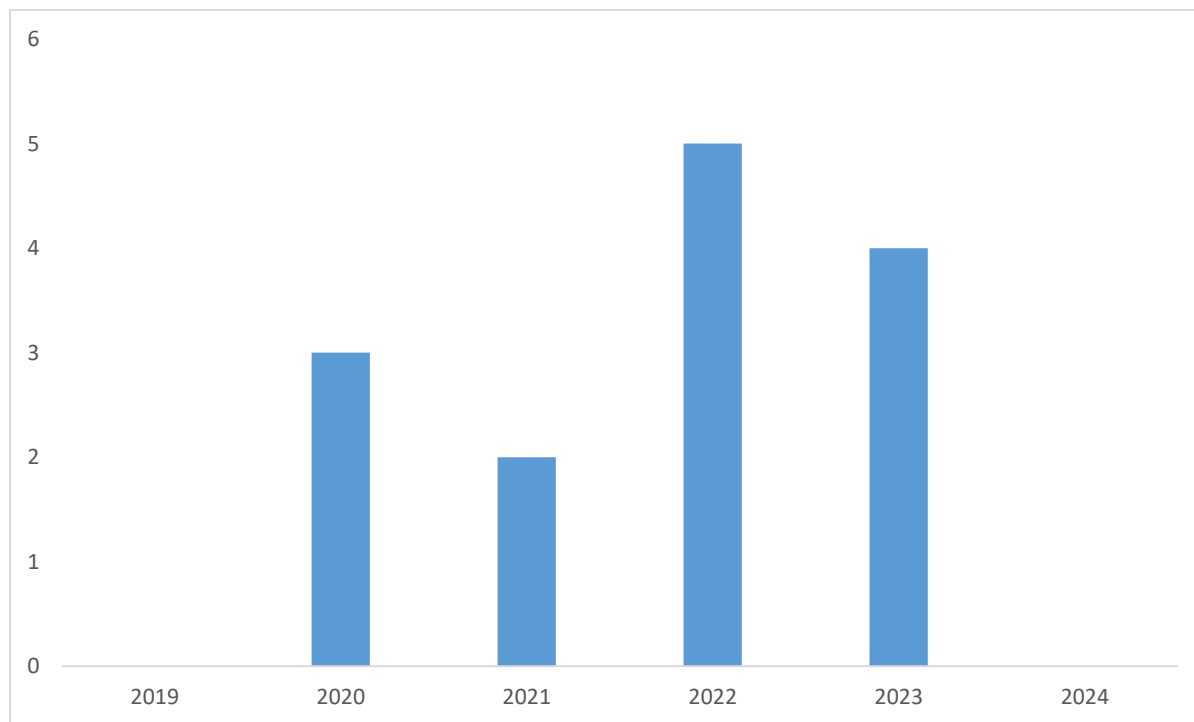
<sup>6</sup> 2022/0077(COD).

<sup>7</sup> OJ L 304, 20.11.2010, p. 47.

Much more controversial was the Commission's sudden increased application of Article 122 TFEU, which sidelines Parliament entirely. This created concerns, in particular, from a democratic and transparency perspective.

### *Commission proposals based on Article 122 TFEU*

Chart 1: Number of procedures (non-legislative enactments) under Article 122 TFEU per year<sup>8</sup>



As indicated above, the Commission applied Article 122 TFEU more often than ever before to react to the COVID-19 pandemic and the consequences of the war in Ukraine. Between 2010 and 2020, only five proposals based on this article were presented by the Commission. In only four years, from 2020 to 2023, this number sharply increased, during which time there were 14 proposals that relied only on the Council's deliberations.

As confirmed by CJEU case-law, the application of Article 122 TFEU presupposes situations of urgency or of exceptionality leading to severe difficulties in the economic situation of the Member States, which cannot be addressed by means of ordinary Union measures.

For being legally defensible, the measures taken under this article have to be 'appropriate', in other words in line with the gravity of the situation. They must be targeted, temporary and economic in nature. The article cannot be used to regulate a matter on a permanent basis and the procedure may not undermine or circumvent the use of other legal bases laid down in the Treaties and used in 'normal' times.

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<sup>8</sup> Until 24 June 2024 inclusive.

However, the Council has a wide margin of discretion for interpreting the situation and therefore applying this article.

The experience of the committees responsible for legislation under Article 122 TFEU proposals has been negative overall. There was a lack of information on the Commission's motivation to apply this article and the reasoning behind the proposal, as well as on possible modifications by the Council and on the final version of the text.

Only in some cases were committees informed by the Commission outside formal procedures of its intention to present a proposal. In some exceptional cases, the proposals were discussed in committee. Usually, there was no cooperation with the Council.

### **Framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level<sup>9</sup>**

The proposal was based on Article 122(1) TFEU. The ENVI committee, innovatively, used a parallel OLP proposal<sup>10</sup> to put forward amendments to the proposal for this Council regulation that accompanied the Commission Decision of 16 September 2021 establishing the Health Emergency Preparedness and Response Authority<sup>11</sup>.

For other files, Parliament addressed the Commission several times to insist on its involvement in legislation in areas subject to the OLP in accordance with the Treaties.

The wish to be involved is now also reflected in the new Rule 138 of its RoP on how to proceed in cases of Article 122 TFEU proposals. The provision requires explanations by the Commission President of the main elements of the proposal and of the choice of this legal basis in plenary, with the possibility for a debate and for presenting a resolution. The committee responsible for legal affairs is tasked to verify the legal basis. Where applicable, the budgetary scrutiny provided for in the joint declaration adopted at the time of the 2021-2027 MFF agreement may be carried out. A follow-up with the Commission at plenary or committee level is also provided for.

#### *The urgent procedure (Rule 170)*

For many years, the UP did not play any role in Parliament's decision-making process. Then, as a result of the UK's decision to withdraw from the EU and the uncertainty of whether withdrawal would take place on negotiated terms of an agreement, the need for acts for contingency and preparedness arose. These acts had to be adopted prior to the UK's expected departure date at the end of March 2019, and Parliament applied the UP to the adoption of three Brexit-related files. At the beginning of the ninth parliamentary term, the UP continued to be linked to measures taken in relation to the UK's withdrawal from the EU (15 UP files). From 2020 onwards, however, the procedure was mainly used to mitigate the effects of the COVID-19 pandemic (26 UP

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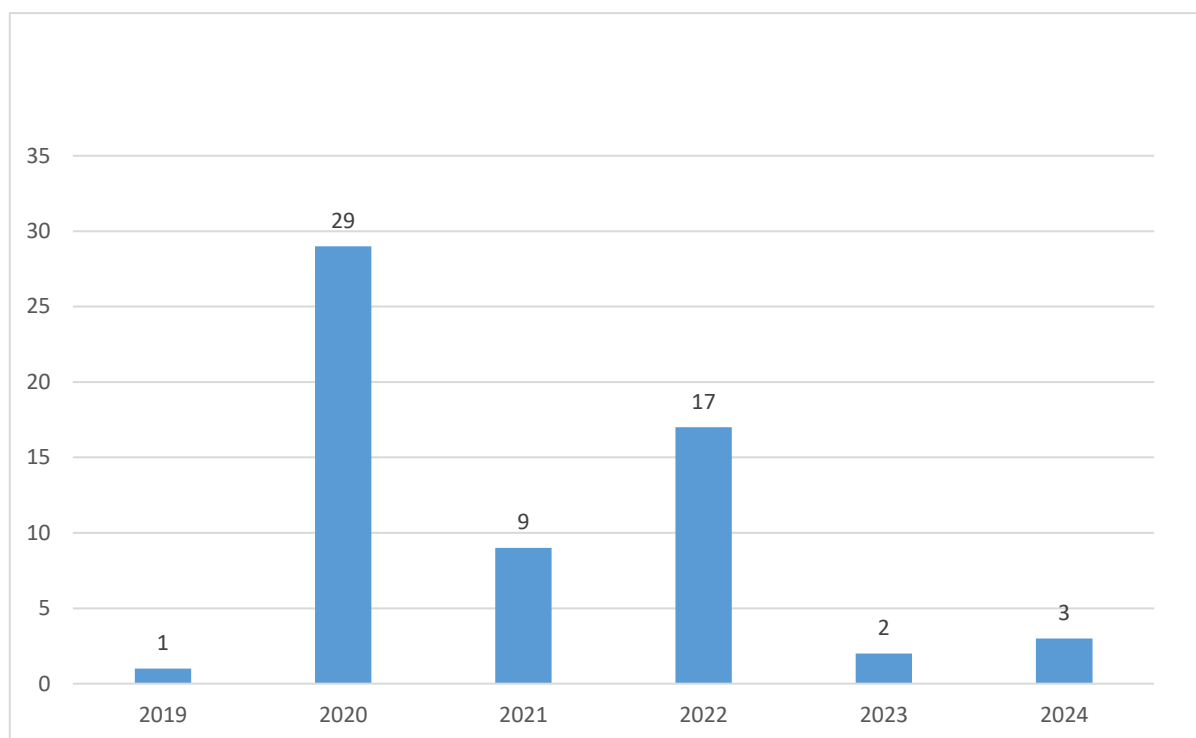
<sup>9</sup> Council Regulation (EU) 2022/2372 of 24 October 2022, OJ L 314, 6.12.2022, p. 64.

<sup>10</sup> Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU, OJ L 314, 6.12.2022, p. 26. <https://eur-lex.europa.eu/eli/reg/2022/2371/oj>

<sup>11</sup> OJ C 3931, 29.9.2021, p. 3.

files) and the effects of the war of aggression against Ukraine (17 UP files). From the beginning of the ninth term, Parliament decided to apply the UP to 61 files in total, including a file that was urgent because of both the COVID-19 pandemic and the war in Ukraine, a file related to the Common Agricultural Policy and the MFF, a file related to the risk of in-vitro device shortages, and a file related to the emissions of non-road mobile machineries. Overall, the UP was applied to nearly 15 % out of 415 concluded and LEX-signed acts.

Chart 2: Number of OLP procedures under Parliament’s internal urgent procedure (Rule 170) by year – ninth term



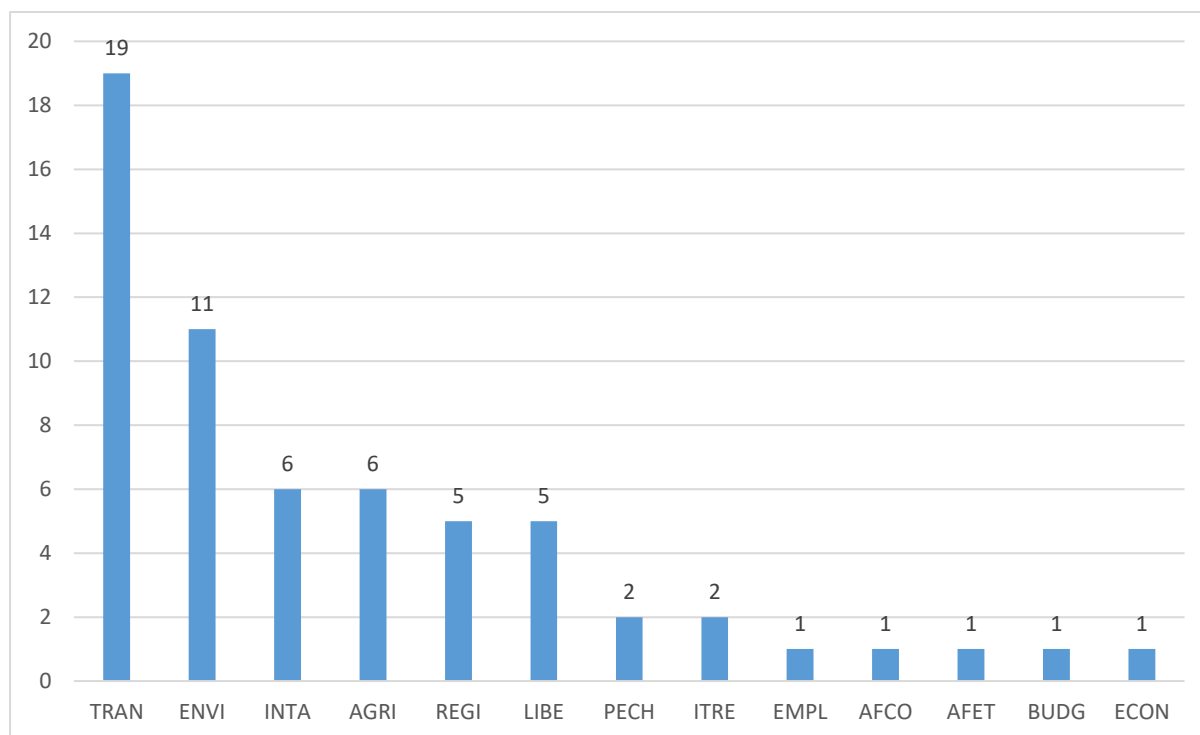
While in crisis mode, the need for urgent reaction by the EU was beyond doubt and supported across the political spectrum, by the Member States and by the institutions. The legislative proposals put forward by the Commission were targeted responses of limited scope, for example to establish temporary measures<sup>12</sup>. Compared to previous objections to this procedure, it was also clear that this time, swift decision-making by the co-legislators was not due to a need to make up for lost time as a result of delays on the part of the Commission when preparing the proposals.

<sup>12</sup> Regulation amending Regulations (EU) No 1301/2013 and (EU) No 1303/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak (2020/0054(COD)); Decision empowering France to negotiate, sign and conclude an international agreement supplementing the Treaty between France and the United Kingdom of Great Britain and Northern Ireland concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link (2020/0160(COD)).



For files under the UP, other forms of informal negotiations were usually used, with the exception of six acts that were negotiated in trilogues<sup>13</sup>.

Chart 3: Number of OLP procedures under the internal urgent procedure (Rule 170) by committee – ninth term



While Rule 170 allowed Parliament to remain flexible in extraordinary situations for uncontroversial files, concerns were raised by many that the UP put at risk Parliament’s prerogatives and scrutiny rights in the legislative procedure, especially those of parliamentary committees. Parliament perceived a lack of loyal cooperation from the other institutions, for example, they had not sent advanced warnings or information to Parliament on upcoming UP proposals.

<sup>13</sup> In addition to the highlighted ITRE file below, this concerned the Regulation laying down temporary measures concerning the time limits for the collection, verification and examination stages provided for in Regulation (EU) 2019/788 on the European citizens’ initiative in view of the COVID-19 outbreak (2020/0099(COD)); Regulation on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) to facilitate free movement during the COVID-19 pandemic(2021/0068(COD)); Regulation on a framework for the issuance, verification and acceptance of interoperable COVID-19 vaccination, test and recovery certificates (EU Digital COVID Certificate) with regard to third-country nationals legally staying or residing in the territories of Member States during the COVID-19 pandemic(2021/0071(COD)); Regulation amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (2022/0090(COD)); Decision on the non-acceptance of travel documents of the Russian Federation issued in Ukraine and Georgia(2022/0274(COD)).



*LEX signing of the Cohesion's Action for Refugees in Europe on 6 April 2022 © European Union 2022 – source: European Parliament*

Therefore, and with the objective of maintaining Parliament's role as co-legislator on equal footing with the Council, of ensuring the transparency of the legislative procedure and of better involving committees, Rule 170 was revised in 2024. The new Rule 170 states that for 'requests made by the Commission or the Council, the statement of reasons shall contain a detailed justification of each proposal and, where appropriate, a precise indication of legally required deadlines for the adoption or entry into force of the proposed legally binding act'. Additionally, for better involvement of the committees, deliberations in plenary should now be based on a report that committees could adopt by making use of the new simplified procedure (Rule 52) where appropriate. However, Parliament may still exceptionally decide to take the urgent decision on the proposal without a report or based on an oral report by the committee responsible if requested by a committee, a political group or Members reaching at least the low threshold.

### **Establishing the Act in Support of Ammunition Production<sup>14</sup>**

The Commission proposed the Act in Support of Ammunition Production on 3 May 2023. The act aims to speed up the delivery of ammunition and missiles to Ukraine and to help Member States replenish their stocks. Parliament approved the request to apply the UP (Rule 170) on 9 May 2023 and its mandate for interinstitutional negotiations was adopted in plenary (Rule 60(4)) on 1 June 2023. Two trilogues took place on 6 and 11 July 2023, during which a provisional agreement was reached and endorsed by Parliament in first reading on 13 July 2023. The final act

<sup>14</sup> 2023/0140(COD), OJ L 185, 24.7.2023, p. 7.

was published in the Official Journal on 24 July 2023. The whole procedure, from the publication of this important proposal to the signing of the act on 20 July 2023, took less than three months.

### *The simplified procedure (Rule 52)*

Another way to shorten the legislative process in Parliament is the use of the 'simplified procedure' (Rule 52). This procedure allows a committee to adopt its position faster, without the in-depth discussion usually linked to the adoption of a report. A committee can opt for this path if it is supported by a substantial majority of its Members, or, to put it in the terms of the RoP, unless a tenth of its Members objects to it. It usually involves a procedure to adopt a Commission proposal unchanged or with very few amendments. During the ninth term, the committees decided to apply the simplified procedure to a total of 20 of the 415 concluded OLP files. Trilogue negotiations took place on only three files under the simplified procedure<sup>15</sup>.

### **Authorising the Commission to vote in favour of the capital increase of the European Investment Fund<sup>16</sup>**

Thanks to the application of Rule 52, the file could be finalised within a little more than one month between the presentation of the Commission proposal on 16 November 2020 and the LEX signing date on 23 December 2020. The very fast procedure was also possible because of the strong support for the proposal: Parliament adopted the act without amendments, with 652 votes in favour and only 30 against with 13 abstentions.

The proposal responded to the expected impact of the COVID-19 crisis and aimed to strengthen the fund's role in the management of national and regional programmes. It gave a capital increase to the European Investment Fund of EUR 2.87 billion.

### *Fast-track under the normal procedure*

There was also pressure to act swiftly for other files without applying a special procedure. One example is the following:

### **Specific rules relating to medicinal products for human use intended to be placed on the market of Northern Ireland<sup>17</sup>**

This Brexit-related proposal was part of the so-called Windsor Framework that facilitated the implementation of the Protocol on Ireland and Northern Ireland. It took into account concerns about the specific situation of placing medicinal products for human use on the market in Northern Ireland, as they are required to comply with Union law. The Commission presented the legislative proposal on 27 February 2023

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<sup>15</sup> Two LIBE files: Directive amending Council Framework Decision 2002/465/JHA, as regards its alignment with Union rules on the protection of personal data (2021/0008(COD)) and Directive amending Directive 2014/41/EU, as regards its alignment with Union rules on the protection of personal data (2021/0009(COD)); one CULT file: Decision on a European Year of Youth 2022 (2021/0328(COD)).

<sup>16</sup> 2020/0343(COD), OJ L 3, 7.1.2021, p. 1.:

<https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=OJ:L:2021:003:TOC>.

<sup>17</sup> 2023/0064(COD), OJ L 157, 20.6.2023, p. 1.

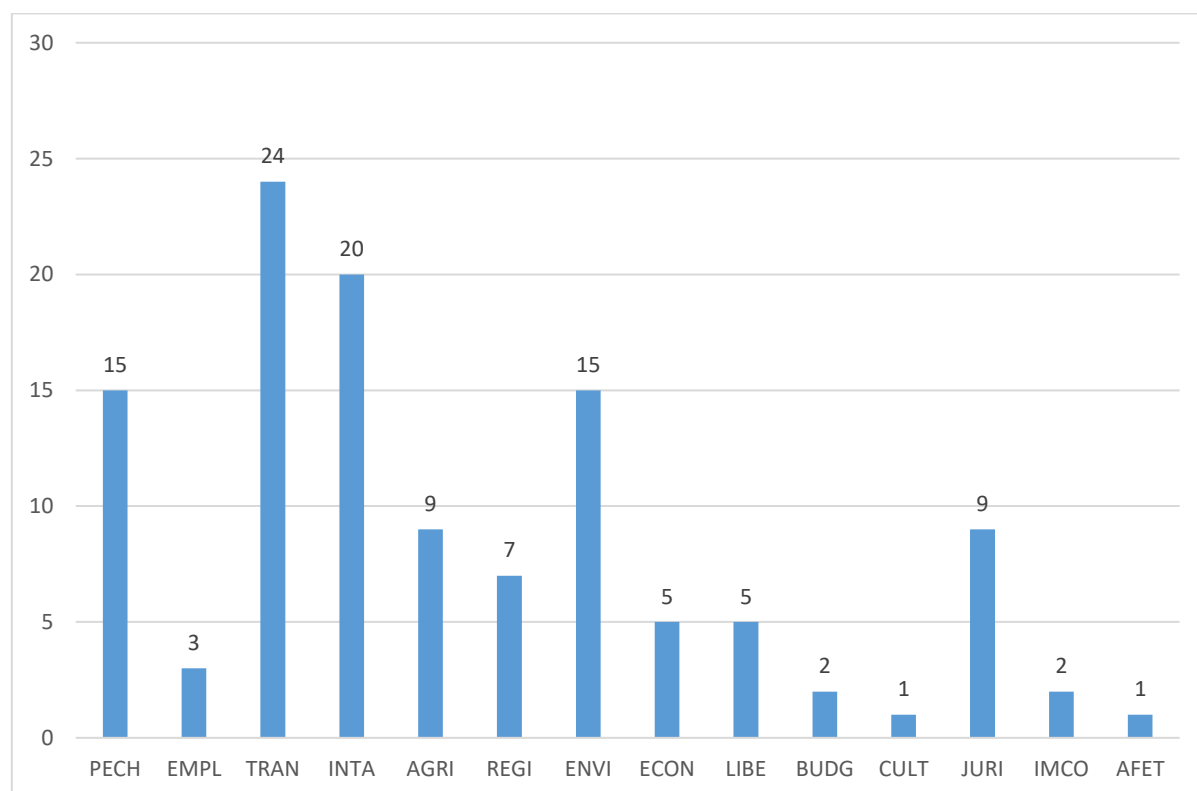
and the file was signed and concluded on 14 June 2023, namely within about three and a half months. Parliament and the Council negotiated on amendments and Parliament adopted the amended proposal<sup>18</sup> in first reading nearly unanimously, with 617 votes in favour and only 3 against and 2 abstentions, on 9 May 2023.

### 1.3. Effects on interinstitutional negotiations

Trilogue negotiations remained the co-legislators' preferred framework to come to an agreement on Commission proposals based on Article 294 TFEU. In total, 973 trilogues took place during the ninth term (see Chart 5 for more details).

However, there was a sharp increase in files concluded without trilogue negotiations in the ninth term. In the eighth term, 28 OLP files were agreed without trilogues out of 401 concluded and LEX-signed OLP files, while the ninth term saw 118 OLP files concluded without trilogue negotiations out of 415 LEX-signed OLP files. The main reason for this increase was the more frequent use of UPs. Another possible reason for concluding a file without trilogue negotiations is the codification of an act that is concluded without negotiations in all cases<sup>19</sup>.

Chart 4: OLP files agreed without negotiations per committee – ninth term



Alternative negotiation methods were used to come to an agreement with the Council in the framework of UPs. Alternative methods in the framework of trilogue negotiations were partially developed by Parliament together with the other

<sup>18</sup> See the Legislative Observatory (OEIL) for more details:

[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2023/0064\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2023/0064(COD)&l=en).

<sup>19</sup> These figures include 55 files dealt with under the UP, 17 files dealt with under the simplified procedure, and six codification files (JURI).

institutions during the COVID-19 pandemic. Apart from these, the negotiating methods developed in extraordinary circumstances were not always helpful for defending Parliament's positions. Therefore, the CCC identified the most important trends in trilogues with a significant impact on Parliament's negotiating position and discussed them on several occasions. This led to a substantial revision of the RoP and accompanying guidelines governing interinstitutional negotiations.

Chart 5: Number of trilogues per committee during the ninth term

Committee	Total	2019	2020	2021	2022	2023	2024
	07.2019-09.04.2024						
AFCO	5	0	1	0	3	1	0
AFET	4	1	2	1	0	0	0
AFET/BUDG	7	0	0	0	0	0	7
AFET/ITRE	2	0	0	0	0	2	0
AFET/DEVE	7	2	5	0	0	0	0
AGRI	46	0	13	24	2	7	0
BUDG/CONT	10	0	5	0	0	5	0
BUDG/ECON	25	0	18	3	4	0	0
CONT	4	2	2	0	0	0	0
CULT	17	9	4	1	0	3	0
DEVE	0	0	0	0	0	0	0
ECON	91	5	12	8	16	36	14
ECON/ENVI	6	6	0	0	0	0	0
ECON/JURI	3	0	0	3	0	0	0
EMPL	54	4	11	7	9	18	5
EMPL/FEMM	7	0	0	0	5	2	0
ENVI	119	8	11	22	37	31	10
ENVI/EMPL	3	0	0	0	3	0	0
ENVI/ITRE	3	0	0	0	0	3	0
FEMM	0	0	0	0	0	0	0
IMCO	63	4	6	5	23	21	4
IMCO/LIBE	5	0	0	0	0	5	0
IMCO/INTA	2	0	0	0	0	0	2
INTA	31	2	6	1	8	10	4
INTA/AFET/AFCO	2	0	0	0	2	0	0
ITRE	101	2	12	11	15	54	7
ITRE/BUDG	3	0	0	0	0	0	3
ITRE/TRAN	4	0	2	2	0	0	0
JURI	32	0	5	1	4	19	3
JURI/FEMM	3	0	0	0	3	0	0
JURI/LIBE	7	0	2	2	0	3	0
JURI/IMCO	2	0	0	0	0	2	0
LIBE	164	12	22	24	23	72	11
LIBE/ECON	21	0	0	0	2	16	3
LIBE/FEMM	8	0	0	0	0	6	2
LIBE/ENVI	3	0	0	0	0	1	2
PECH	27	2	8	4	7	2	4
REGI	27	7	17	3	0	0	0
TRAN	55	9	9	7	9	14	7
<b>Total</b>	<b>973</b>	<b>75</b>	<b>173</b>	<b>129</b>	<b>175</b>	<b>333</b>	<b>88</b>



The new RoP aim to make Parliament more effective and efficient in interinstitutional negotiations, in particular by enhancing the transparency of the process, further clarifying the roles of Chairs, rapporteurs, shadow-rapporteurs and political and administrative staff, and streamlining procedures.

It was also observed that interinstitutional technical meetings (ITMs) were used much more frequently, not only to address the challenges related to complex and very technical files, but also to make progress on a file in between trilogues with the objective of being as efficient as possible. Consequently, the CCC and the CoP discussed different aspects of ITMs, including their organisation, chairing, attendance in person, the documents shared at these meetings (also in light of transparency and access to documents) and the proper debriefing of Parliament's negotiating team following an ITM.

## 2. The Ordinary Legislative Procedure: overview and figures

### 2.1 Commission proposals

#### *Unfinished business resumed in 2019 under the ninth Parliament*

In 2019, the newly elected Parliament had to decide whether it intended to resume work on 130 OLP files<sup>20</sup> that had not been concluded prior to the elections. In accordance with former Rule 240<sup>21</sup>, the CoP took the relevant decision on 16 October 2019 based on reasoned requests from parliamentary committees and other institutions.

Of these 130 files, Parliament had not yet adopted its first-reading position on 44 files, and the CoP decided to resume work from where it had left off at the end of the eighth parliamentary term for 34 files. For three files, the decision was taken to start from scratch, and for seven files, the CoP requested that they should be withdrawn by the Commission. Of the legislative procedures finalised this term on which the eighth Parliament had not adopted a position, all were concluded at first reading.

For the remaining 86 OLP files, the first reading had already been concluded during the previous term and for 83 files the CoP confirmed that these first readings constituted Parliament's mandates in the upcoming early second reading negotiations with the Council. This concerned mostly files related to the 2020–2027 MFF. The CoP requested that the Commission withdraw three of the 86 files<sup>22</sup>.

At the end of the ninth parliamentary term, around 120 OLP files were still ongoing. In the autumn of 2024, the CoP will take a decision on the resumption of business on the basis of Rule 250 upon the recommendation of the newly established committees. Pending this decision, it can be assumed that 70 unfinished OLP files and 51 non-agreed first-reading positions will be carried over to the next Parliament. Compared to five years ago, this means one third fewer non-agreed first readings.

#### *Commission proposals since the elections in 2019*

During the ninth parliamentary term, the Commission tabled 468 OLP proposals, (excluding proposals for corrigenda)<sup>23</sup>. Overall, this number did not differ considerably from the eighth term, while a high number of legislative proposals had their origin in extraordinary situations, namely the withdrawal of the UK from the EU

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<sup>20</sup> Since 16 July 2024 Article 250.

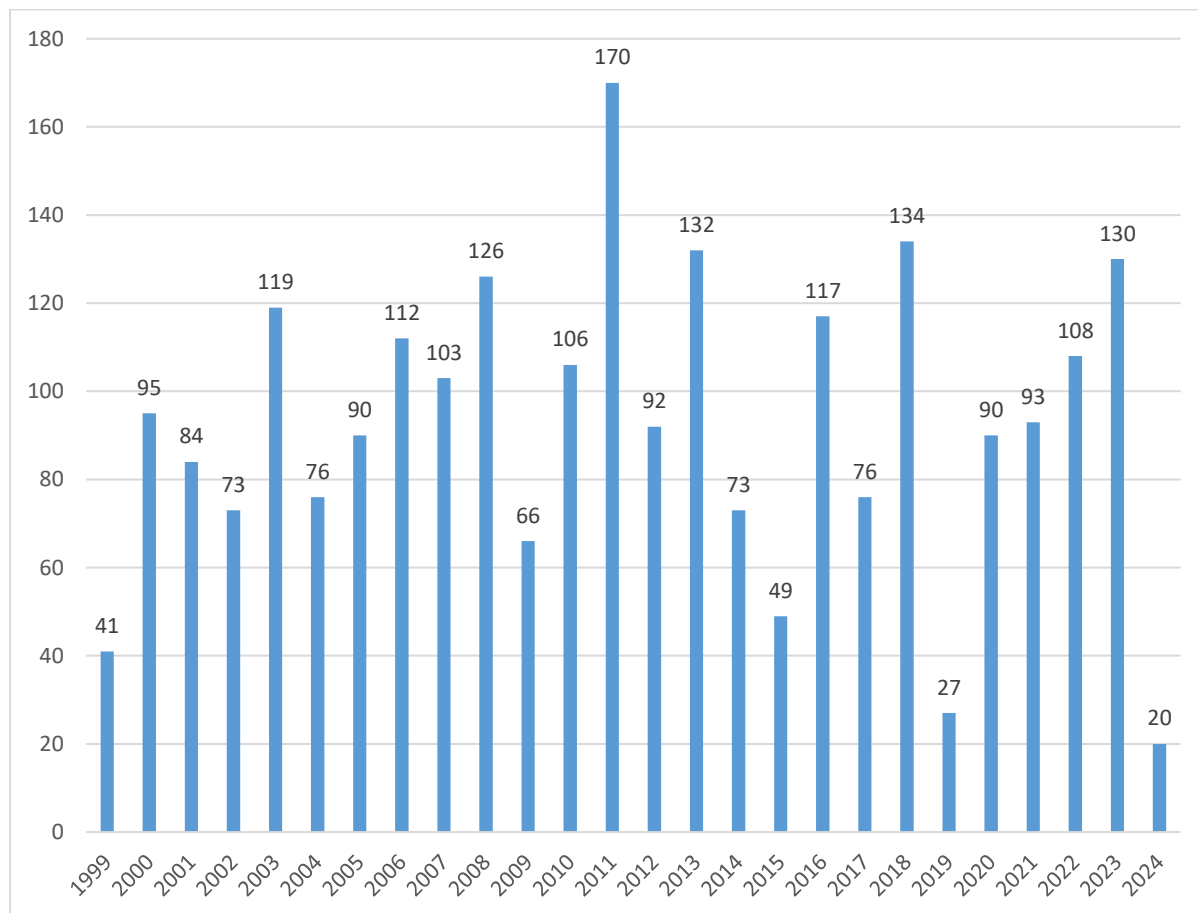
<sup>21</sup> Throughout the text, the numbering of the RoP corresponds to the version entering into force on 16 July 2024. In this case and for the purposes of clarity, we refer to the previous numbering.

<sup>22</sup> The possibility for Member States to restrict or prohibit the use of genetically modified food and feed on their territory (2015/0093(COD)) (ENVI): the Commission did not follow up on this request and the file is blocked but not withdrawn; Common European sales law (CESL) (2011/0284 (COD)) (JURI): withdrawn by the Commission; European Regional Development Fund, European Social Fund, Cohesion Fund, European Agricultural Fund for Rural Development and European Maritime and Fisheries Fund: support for structural reforms in Member States (2017/0336(COD)) (REGI): withdrawn by the Commission.

<sup>23</sup> Based on the Register of Commission Documents: <https://ec.europa.eu/transparency/documents-register/>.

(24), the fight against the COVID-19 pandemic (35<sup>24</sup>) and the Russian invasion of Ukraine (32). As Chart 6 shows, the first two are particularly visible in the statistics: the Commission adopted 90 proposals during the second year of the ninth term (2020), compared to 49 proposals during the second year of the eighth term (2015).

Chart 6: Commission OLP proposals per year since 1999<sup>25</sup>



<sup>24</sup> This figure does not include two COVID-19-related files that were withdrawn.

<sup>25</sup> The data for 2024 include Commission proposals for the OLP published up until 24 June 2024.

## Special case

### The Anti-money-Laundering Agency (AMLA)

During the ninth term, for the first time ever, Parliament was directly involved in deciding on the location of the seat of an EU agency, the AMLA. Until the judgments in cases C-59/18<sup>26</sup>, C-182/18<sup>27</sup>, C-106/19 and C-232/19<sup>28</sup>, and C-743/19<sup>29</sup>, Parliament was systematically left out of the procedure for the selection of agencies' seats.

The breakthrough came after Italy and the Municipality of Milan challenged the decision to move the European Medical Agency from London to Amsterdam following the UK's withdrawal from the Union. In these cases, the CJEU ruled that the decision on selecting the seat's location should be part of the legislative procedure and should be taken during the OLP. Consequently, the AMLA seat selection took place during trilogue negotiations. The co-legislators established a procedure covering the call for applications, submissions, selection criteria and assessment of applications, hearings of candidates, and the actual selection of the seat's location.

For the first time, a joint call for applications was sent to ambassadors. The public hearing with the nine candidate countries was held on Parliament's premises on 30 January 2024 and involved not only Members of the European Parliament and representatives of the Council Presidency, but also ministers, state secretaries and elected representatives from the applicant cities. The event was public and web-streamed.

While all in all the procedure was a success, it would probably need to be updated in the future, taking into account the lessons learnt and ensuring an even more equal and balanced participation between the two co-legislators.

Internally, the distribution of the Commission proposals among Parliament's committees confirms that the ENVI, ECON, LIBE, and TRAN committees have a high OLP workload.

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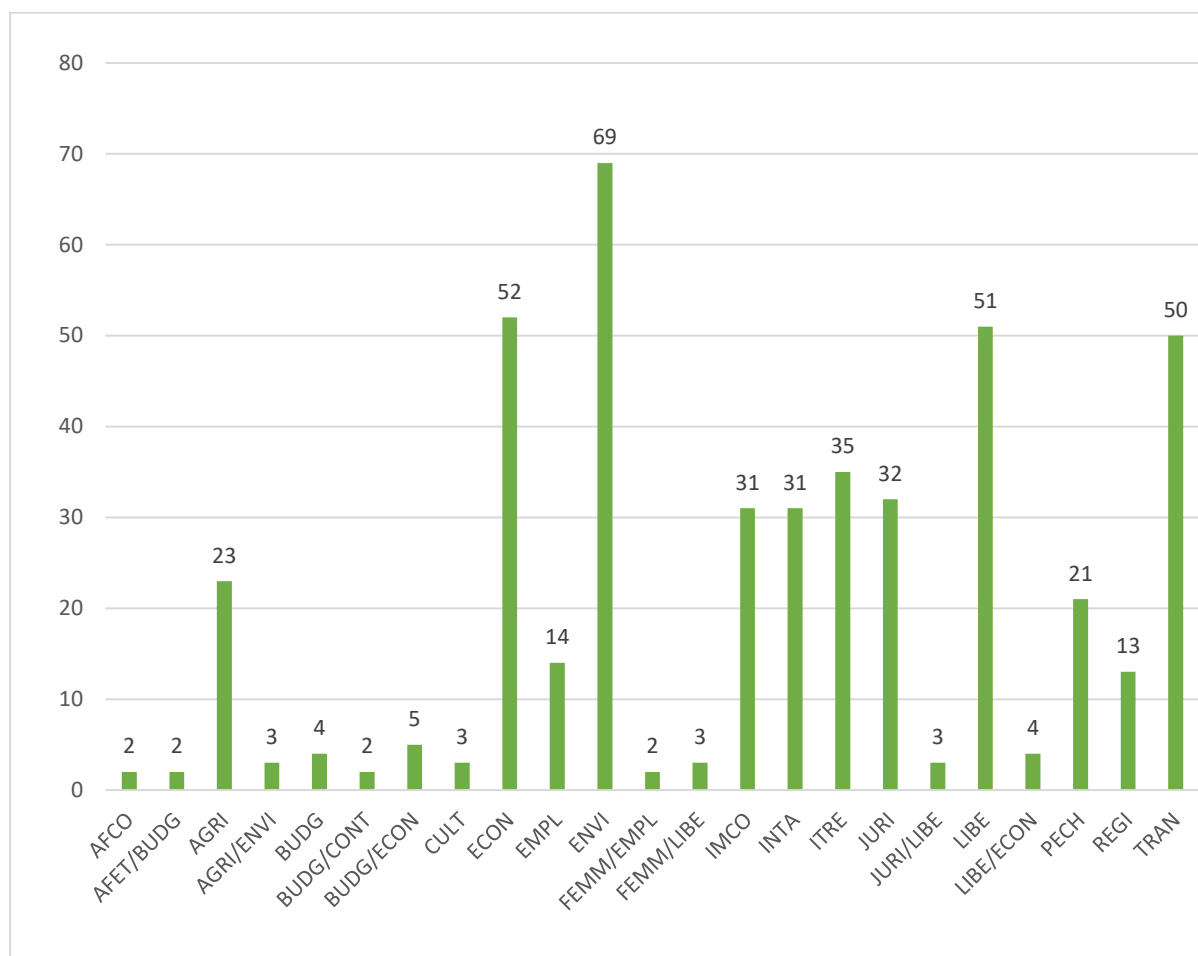
<sup>26</sup> Judgment of the Court (Grand Chamber) of 14 July 2022, *Italian Republic, Comune di Milano v Council of the European Union*, Joined Cases C-59/18 and C-182/18, ECLI:EU:C:2022:567.

<sup>27</sup> Order of the Vice-President of the Court of 2 July 2018, *Comune di Milano v Council*, C-182/18, ECLI:EU:C:2018:524.

<sup>28</sup> Judgment of the Court (Grand Chamber) of 14 July 2022, *Italian Republic (C-106/19), Comune di Milano (C-232/19) v Council of the European Union, European Parliament*, Joined Cases C-106/19 and C-232/19, ECLI:EU:C:2022:568.

<sup>29</sup> Judgment of the Court (Grand Chamber) of 14 July 2022, *European Parliament v Council of the European Union*, Case C-743/19, ECLI:EU:C:2022:569.

Chart 7: Commission proposals according to lead committee<sup>30</sup>



### *Proposals in packages and of a cross-cutting nature*

As had already been observed during the previous term, in the ninth term an increasingly high number of Commission proposals was broad and cross-policy in nature, falling under the competences of several committees. Additionally, more and more Commission proposals were presented in legislative packages that required the cooperation of several committees and overall coordination for coherence and consistency at plenary level. In such cases, Parliament responded by using the associated committee procedure (former Rule 57<sup>31</sup>) or the joint committee procedure (former Rule 58<sup>32</sup>). During the term, the latter was applied to 40 proposals tabled by the von der Leyen Commission, compared to 25 during the eighth parliamentary term. The associated committee procedure was used 105 times in this term and 74 in

<sup>30</sup> The chart shows the committees that dealt with more than one Commission proposal. The following committees/joint committees (Rule 60) dealt with one proposal each: AFET, ITRE/AFET, AGRI/TRAN, ENVI/ITRE, ENVI/EMPL, IMCO/ENVI, IMCO/INTA, IMCO/LIBE, INTA/AFCE/AFET, ITRE/BUDG, JURI/IMCO, LIBE/ENVI, LIBE/EMPL and TRAN/ENVI.

<sup>31</sup> This rule on associated committees was abolished with the reform of the RoP in 2024.

<sup>32</sup> Throughout the text, the numbering of the RoP corresponds to the version entering into force on 16 July 2024. In this case and for the purposes of clarity, we refer to the previous numbering.

the eighth term. In some cases, more than four opinion-giving committees were involved<sup>33</sup>.

### **Fit for 55 package**

One of the prominent packages this term was the 'Fit for 55 package', presented in July 2021 and including 14 legislative proposals<sup>34</sup>. These amending proposals and new initiatives were linked to the European Green Deal's climate actions and, in particular, the 55 % target for the net reduction in greenhouse gas emissions. They involved not only the ENVI committee, but also AGRI, BUDG, DEVE, ECON, EMPL, IMCO, INTA, ITRE, JURI, PECH, PETI, REGI and TRAN. The committees cooperated under the former Rule 57<sup>35</sup>, and for the Social Climate Fund under Rule 59. In its decision on the contributions on the different files, the CoP had obliged committees to adopt their mandate in plenary in accordance with Rule 60(4) to ensure consistency and coherence across the package. The last acts of this package were concluded and signed shortly before the elections for the tenth term.

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<sup>33</sup> For example, in the cases of the European Health Data Space (2022/0140(COD)), establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net Zero Industry Act) (2023/0081(COD)); laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) (2021/0106(COD)); prohibiting products made with forced labour on the Union market (2022/0269(COD)); standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation (2022/0400(COD)); and packaging and packaging waste (2022/0396(COD)).

<sup>34</sup> Amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757 (ETS) (2021/0211(COD)); amending Decision (EU) 2015/1814 as regards the amount of allowances to be placed in the market stability reserve for the Union greenhouse gas emission trading scheme until 2030 (2021/0202(COD)); amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and appropriately implementing a global market-based measure (2021/0207(COD)); amending Directive 2003/87/EC as regards the notification of offsetting in respect of a global market-based measure for aircraft operators based in the Union (CORSIA) (2021/0204(COD)); amending Regulation (EU) 2018/841 as regards the scope, simplifying the compliance rules, setting out the targets of the Member States for 2030 and committing to the collective achievement of climate neutrality by 2035 in the land use, forestry and agriculture sector, and (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review (LULUCF) (2021/0201(COD)); amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement (ESR) (2021/0200(COD)); amending Directive (EU) 2018/2001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652 (RED) (2021/0218(COD)); Directive on energy efficiency (recast) (2021/0203(COD)); ensuring a level playing field for sustainable air transport (2021/0205(COD)); the use of renewable and low-carbon fuels in maritime transport and amending Directive 2009/16/EC (2021/0210(COD)); the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU (2021/0223(COD)); amending Regulation (EU) 2019/631 as regards strengthening the CO<sub>2</sub> emission performance standards for new passenger cars and new light commercial vehicles in line with the Union's increased climate ambition (2021/0197(COD)); establishing a Carbon Border Adjustment Mechanism (CBAM) (2021/0214(COD)); restructuring the Union framework for the taxation of energy products and electricity (recast) (2021/0213(CNS)); establishing a Social Climate Fund (2021/0206(COD)).

<sup>35</sup> See footnote 32.





*LEX signing of the Shipment of waste regulation on 11 April 2024 © European Union 2024 – source: European Parliament*



*Parliament press conference on 20 December 2023 after an agreement was reached on the new pact on migration and asylum © European Union 2023 – source: European Parliament*

## Migration and Asylum Package<sup>36</sup>

Some of the Commission proposals to reform the European asylum system had already been presented in 2016 as a response to the migration crisis of 2015. However, the negotiations on the main proposals for a revision of the so-called Dublin Regulation<sup>37</sup> and the Asylum Procedure Regulation<sup>38</sup> were blocked in the Council. Consequently, the von der Leyen Commission presented new and amending proposals in 2020 with a view to better addressing the needs of the Member States.

After the end of the pandemic, a roadmap up to the end of the ninth term was developed between Parliament and the Council presidencies concerned (France, Czechia, Sweden, Spain and Belgium) with the objective of adopting the package before the 2024 European elections. The roadmap constituted a framework that enabled the adoption of Parliament's and the Council's negotiating mandates and the start of the negotiations in the second half of 2023. In a trilogue marathon lasting several days at the end of the Spanish Presidency in December 2023, an agreement was reached between the co-legislators. The package was adopted in Parliament in first reading during the April I plenary session and by the Council on 14 May 2024.

At the end of the term, in order to accommodate the increased number of cross-cutting proposals and with a view to improving cooperation among the committees, the RoP were amended for opinion-giving committees (Rule 57) and joint committees (Rule 59)<sup>39</sup>, while the associated committee procedure was abolished. Additionally, CCC guidelines for cooperation under Rule 59 were adopted. The new rules applicable from the tenth term allow for cooperation between a maximum of

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<sup>36</sup> Regulation on the establishment of 'Eurodac' for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council(2016/0132(COD)); Directive laying down standards for the reception of applicants for international protection (recast) (2016/0222(COD)); Regulation on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council (2016/0223(COD)); Regulation establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (2016/0224A(COD)); Regulation establishing a return border procedure, and amending Regulation (EU) 2021/1148 (2016/0224B(COD)); Regulation establishing a Union Resettlement and Humanitarian Admission Framework, and amending Regulation (EU) 2021/1147 (2016/0225(COD)); Regulation addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147 (2020/0277(COD)); Regulation on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 (2020/0279(COD)); Regulation introducing the screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (2020/0278(COD)); Regulation amending Regulations (EU) 2019/816 and (EU) 2019/818 for the purpose of introducing the screening of third-country nationals at the external borders(2021/0046(COD)).

<sup>37</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, OJ L 180, 29.6.2013, p. 31.

<sup>38</sup> Proposal for a regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, COM/2016/0467.

<sup>39</sup> See footnote 32.

three committees under Rule 59 and foster a culture of cooperation between committees.

## 2.2 Negotiating mandates

Since the RoP reform of 2017, all committee decisions to start negotiations based on a report ('committee mandate', Rule 72) have to be announced in plenary with a possibility for the political groups or a number of individual Members reaching at least the medium threshold to challenge this decision with a view to amending the mandate. From the tenth term onwards, new rules will enter into force also enabling opinion-giving committees to request that a committee decision to enter into interinstitutional negotiations be put to the vote. Alternatively, the political groups or a number of individual Members have the possibility to adopt amendments to the Commission proposal during a plenary vote ('plenary mandate', Rules 60(4) and 61) before requesting a referral back to the committee for negotiations or reconsideration, or to conclude the first reading.

During the ninth term, committee mandates made up the majority of Parliament's negotiating mandates for first readings: a total of 187. Out of these, 20 were challenged in plenary, albeit without success. In addition, 93 plenary mandates were adopted. In 71 cases, Parliament negotiated on the basis of its first reading with a view to reaching an agreement before the Council's first reading (early second reading, Rule 73).

Comparing these figures to those from the previous term, there seems to be a shift towards a higher proportion – 33 % – of plenary mandates. In the previous term, more than three quarters of all mandates were committee mandates. A possible explanation for this development may be that plenary mandates help to coordinate complex legislative proposals in cases of questions related to competences. Moreover, it is interesting to note that fewer committee decisions to enter into negotiations were challenged in the ninth term than in the past.

## 2.3 Adoptions, rejections and withdrawals

Wider political context has also influenced Parliament's role as a co-legislator.

As in previous terms, no political group had a majority in Parliament for adopting legislative acts. In the ninth term, at least three political groups were required to build a majority for their adoption. This had particular consequences for second readings, for which an absolute majority in plenary is needed to amend or reject the Council's first reading position. This meant more time and negotiating efforts in terms of compromises were needed to oppose the Council in the event of disagreements on a legislative proposal. This created additional pressure on negotiating teams to conclude agreements at first reading or early second reading.

### *Number of OLP files and stage of adoption*

During the ninth term, 415 files were LEX-signed by 2024. The overall trend of reaching agreements and concluding a file at the earliest possible stage in the OLP continued during the parliamentary term, and 86 % of all files were concluded at first

reading, namely 355 files. However, there was also a relatively high number of so-called early second reading agreements compared to the average of previous parliamentary terms, namely 60 files. These early second readings almost exclusively concern proposals related to the MFF published by the Commission in late 2018 and on which the outgoing Parliament had adopted its first-reading position prior to the 2019 elections. There were no second-reading agreements in the ninth term, while the third-reading agreements had not been used since the eighth term.

Chart 8: Stage of adoption of OLP files since the fifth term

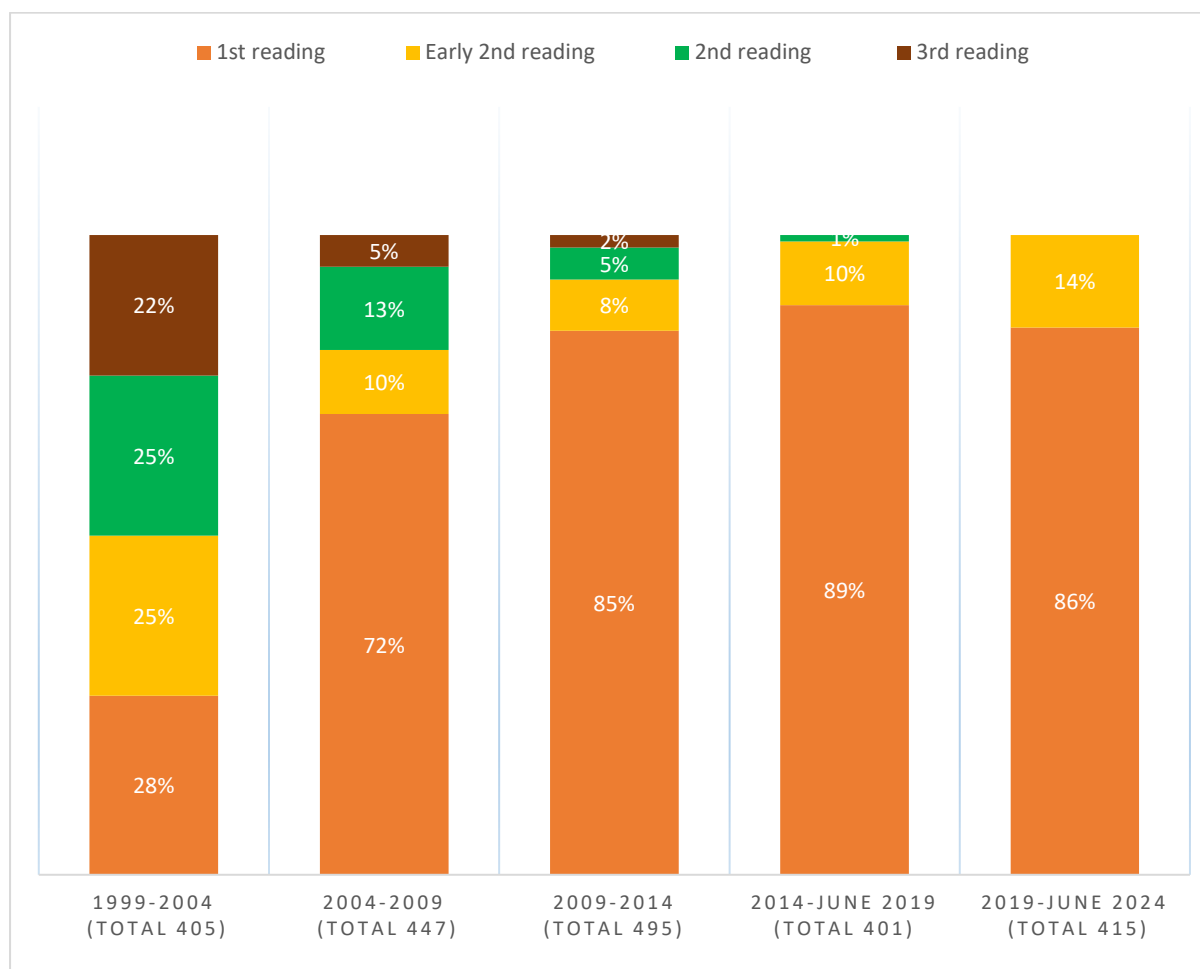
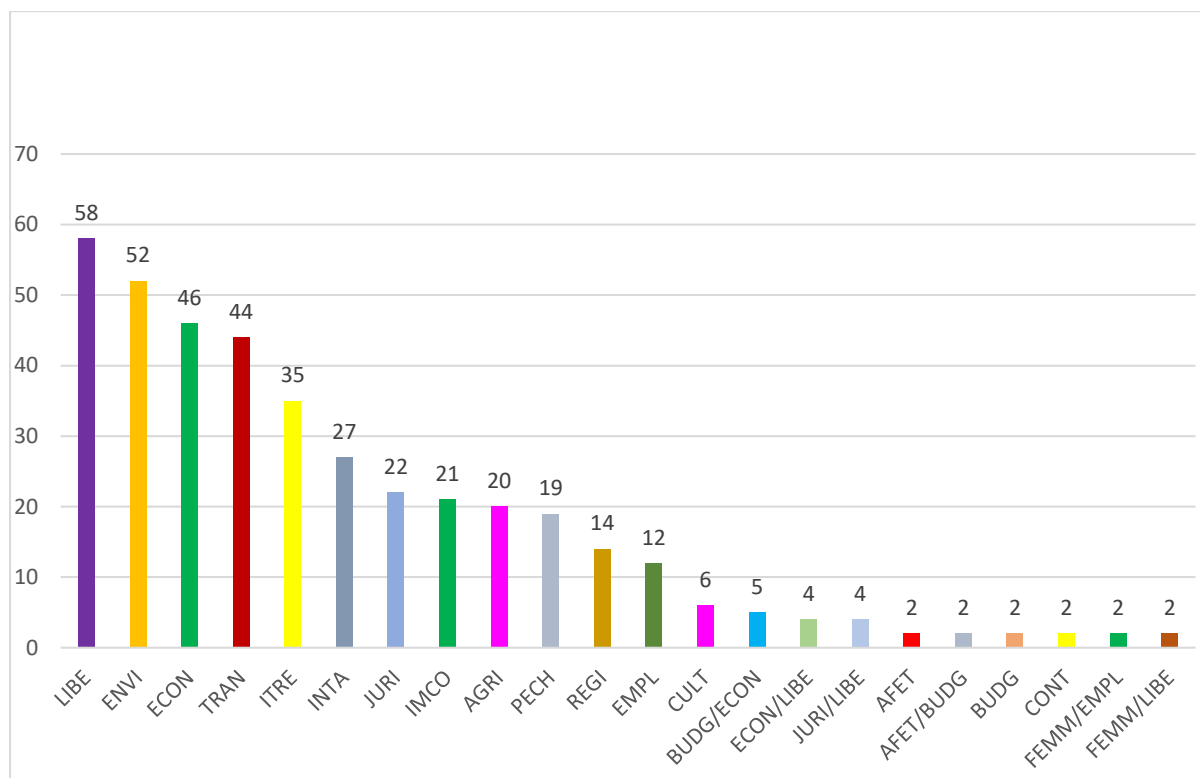


Chart 9: Adopted and LEX-signed OLP files per committee where the committee adopted more than one OLP file up until 24 June 2024



Committees and joint committees with only one OLP file adopted and signed act are: AFCO, AFET/ITRE, AFET/DEVE, AFET/INTA/AFCO, ENVI/AGRI, ENVI/EMPL, ENVI/ITRE, FEMM/JURI, ITRE/BUDG, BUDG/CONT, ECON/ENVI, ECON/JURI, IMCO/LIBE and ITRE/TRAN<sup>40</sup>.

#### *Proposals rejected either by Parliament or the Council*

During the ninth term, Parliament rejected two Commission proposals in plenary and asked the Commission to withdraw them. For political reasons, the ENVI file on the sustainable use of plant protection products<sup>41</sup> was rejected in plenary on 22 November 2023. The PECH file on laying down management, conservation and control measures applicable in the area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA)<sup>42</sup> was rejected in plenary on 11 July 2023 for reasons of institutional balance.

<sup>40</sup> Please note that this includes files that were presented by the Commission before the start of the ninth term.

<sup>41</sup> 2022/0196(COD). The proposal was withdrawn by the Commission on 6 May 2024.

<sup>42</sup> 2022/0348(COD).





*LEX signing of the temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the EU/Euratom/Ukraine Association Agreement on 31 May 2023 © European Union 2023 – source: European Parliament*

In addition, towards the end of the term, discussions on a worrying number of provisionally agreed files took place in the Council, questioning the provisional agreements achieved in informal interinstitutional negotiations. The consequence was that further negotiations were needed to modify the initial agreement to reach the necessary majority of Member States in the Council to support the deal<sup>43</sup>.

<sup>43</sup> EMPL: Improving working conditions of persons working through digital labour platforms (2021/0414(COD)); provisional agreement reached on 12 December 2023; no qualified majority reached in Council; additional trilogues took place to come to a new provisional agreement on 8 February 2024 which was confirmed in Coreper on 11 March 2024; first reading of Parliament during April II plenary.

JURI: Corporate Sustainability Due Diligence (2022/0051(COD)); provisional agreement reached on 13 December 2023; qualified majority in Council only reached on 11 March 2024 after Parliament had agreed to a further reduction of the scope; first reading of Parliament during April II plenary; the Council adopted its first-reading position on 24 May 2024.

PECH: Multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean (2019/0272(COD)); provisional agreement reached on 10 November 2020; rejected in Coreper on 25 November 2020; Parliament's first reading on 28 April 2021; further informal negotiations; second provisional agreement in written form in March 2023, endorsed by Coreper on 5 April 2023. The Council's first reading took place on 26 June and it adopted its first-reading position on 30 June 2023. Parliament endorsed the Council's first reading in an early second reading without a vote on 12 September 2023.

INTA: Temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the EU/Euratom/Ukraine Association Agreement (2024/0028(COD)); provisional agreement reached on 19 March 2024; no qualified majority reached in Council; further trilogue negotiations on 8 April 2024 during which a new provisional agreement was reached which was endorsed by Coreper on 9 April 2024; first reading of Parliament during April II plenary. The Council adopted its first-reading position on 14 May 2024.

ENVI: Nature restoration (2022/0195(COD)); provisional agreement reached on first reading of Parliament on 27 February 2024. Adoption by the Council on 17 June 2024.

While for these files agreements were eventually reached which were formally adopted by Parliament and the Council, there is one file for which provisional agreements were concluded without reaching, in the end, the required majority in the Council to come to a first reading agreement:

#### **Coordination of social security systems: benefits<sup>44</sup>**

On 19 March 2019, a first provisional agreement was reached under the Romanian Presidency that was not confirmed by Coreper. Further trilogues took place under the German, Portuguese and Slovenian Presidencies, and on 16 December 2021 a second provisional agreement was reached that was also rejected by Coreper on 22 December 2021. The Council could not come up with a revised mandate to resume negotiations under the Swedish or the Spanish Presidency. In the same vein, the Belgian Minister informed the rapporteur in February 2024 that the Belgian Presidency also had no intention of further working on the file. Consequently, the file is once again carried over to the next term under unfinished business, as was also the case in 2019.

#### *Withdrawals*

During the ninth term, 43 OLP proposals were withdrawn by the Commission. At the time of writing, eight<sup>45</sup> of the 10 OLP files for which Parliament had requested the withdrawal have been effectively withdrawn by the Commission.

## 2.4 Duration of the OLP procedures

The total average length of all LEX-signed OLP procedures was 20 months<sup>46</sup> during the ninth term. Discounting the UPs, the average length was 24 months.

For files agreed at first reading, the figures reveal an average of 17 months reflecting an increase in UPs with an average length of 1.7 months.

When comparing the average duration of first readings without UPs (20 months) to the average duration of all OLP files without UPs (24 months, see above), a difference of four months can be observed. To explain this difference, the duration of early second readings needs to be taken into account. Their average duration was 39 months in the ninth term. However, at the end of the term, they accounted for much less in the average duration than at mid-term where we saw a difference of as high as eight months. This reduction is due to the high number of first reading agreements.

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<sup>44</sup> EMPL: 2016/0397(COD).

<sup>45</sup> Not withdrawn: LIBE: Public access to European Parliament, Council and Commission documents (recast) (2011/0073(COD)); ENVI: Possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory (2015/0093(COD)).

<sup>46</sup> Calculated from the date of proposal by the Commission to the signing of the adopted act by Parliament's President and a representative of the Presidency of the Council (so-called LEX signature).





*Trilogue on the Women on Boards Directive where an agreement was reached after the proposal was unblocked in the Council after 10 years, on 7 June 2022. © European Union 2022 – source: European Parliament*

## 3. Transparency of the decision-making process

### 3.1. The pandemic's impact on parliamentary work

As set out in previous chapters, the COVID-19 pandemic seriously affected Parliament's working methods. While the President's decisions and the tools put in place allowed for a semi-remote or remote continuation of Parliament's work, the effect on the transparency of the decision-making process should be highlighted, for example with regard to remote voting in committees.

### 3.2. Access to documents

Access to documents held by the EU institutions is governed by Regulation (EC) No 1049/2001<sup>47</sup>, complemented by a vast body of case-law. The procedure established by Parliament<sup>48</sup> is based on the regulation and requests are managed by its Transparency Unit. The ninth parliamentary term saw a constant flow of requests for access to documents related to interinstitutional negotiations. As pointed out above, all these requests were answered positively, following a case-by-case analysis in line with established case-law.

During the term, the case-law was extended by another judgment, Case T-163/21<sup>49</sup>, in which the CJEU upheld the rights of citizens to have broad access to documents held by the institutions.

Furthermore, based on a report prepared by the LIBE committee, Parliament regularly adopts a resolution on 'Public access to documents' held by the Union's institutions. The most recent resolution dates from July 2023<sup>50</sup>.

As an overarching principle, Parliament stressed in this resolution 'that transparency and the widest possible public access to documents are essential for ensuring the accountability and democratic scrutiny of the EU institutions, and that citizens' trust in the EU directly depends on transparency'. The resolution welcomed the institutions' high response rate to initial requests for public access to documents (95 % for Parliament in 2021). Regarding interinstitutional negotiations, Parliament advocated for the transparency of trilogues and corresponding access to related documents.

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<sup>47</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

<sup>48</sup> Bureau decision of 28 November 2001 on Rules governing public access to European Parliament documents.

<sup>49</sup> Judgment of General Court of 25 January 2023, *De Capitani v Council*, T-163/21, ECLI:EU:T:2023:15.

<sup>50</sup> European Parliament resolution of 13 July 2023 on public access to documents – annual report for the years 2019-2021, Texts adopted, P9\_TA(2023)0295.

## 4. MFF programmes

In line with Article 312 TFEU, the MFF determines, over a period of at least five years, the expenditure for the EU's major activities. The MFF comprises two important dimensions: the budgetary dimension, namely the MFF as such (the MFF Regulation and the accompanying Interinstitutional Agreement, own resources (OR) and NextGenerationEU (NGEU)), and the policy dimension, which consists of the legal bases for the multiannual programmes and instruments for activities. This chapter focuses on the policy dimension of the MFF: the negotiations on the MFF-related programmes that were conducted under the OLP.

### 4.1. Negotiations on the MFF programmes

The negotiations on the 2021-2027 MFF sectoral programmes took place under special circumstances: late Commission proposals due to Brexit uncertainties were followed by Parliament elections in 2019, the appointment of the new Commission and, most importantly, the COVID-19 pandemic. After the European elections and at the beginning of the von der Leyen Commission, a new dimension was added to the initial MFF proposals with the introduction of the Green Deal, a European strategy for sustainability and climate neutrality. In 2020, NGEU, which served as the EU's recovery strategy for the COVID-19 pandemic, constituted a further revision of the MFF.

In the pursuit of achieving consensus among Member States on the MFF and OR, the European Council used 'negotiating boxes' as a toolkit before sending the Council into negotiations with Parliament on the 2021-2027 MFF sectoral files. During interinstitutional negotiations, the Council refused to adapt any of the elements that it had put into the negotiating boxes (so-called bracketed provisions) before a compromise position had been adopted by the European Council. Once the negotiating box had become European Council conclusions, the Council completed its negotiating mandates but continued to regard these elements as 'non-negotiable', under the pretext of a delicate and non-flexible agreement reached at the highest political level.

In the course of MFF negotiations, the CoP adopted regular guidance on Parliament's strategy. Given the Council's approach to negotiating boxes, this included a decision of 19 December 2019 advising the committees to suspend negotiations on aspects related to the scope of the future programmes. This led to a full or partial suspension of negotiations on many files, sometimes on key political issues.

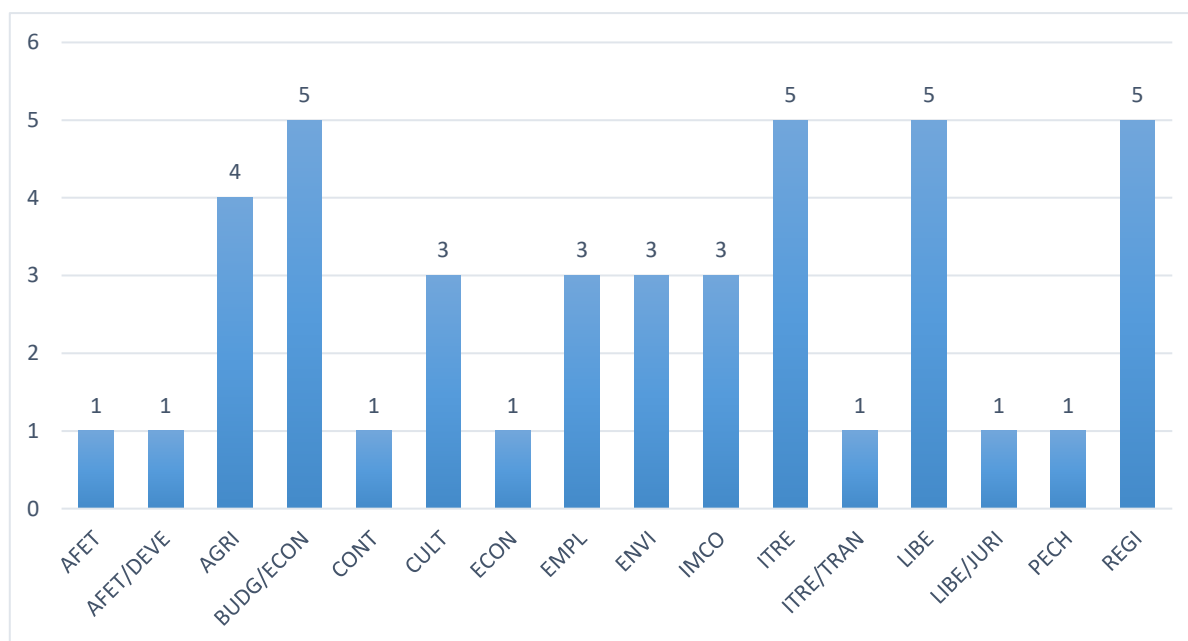
### 4.2. Results and conclusions

By the end of the ninth legislative term, 47 MFF-related sectoral proposals had been issued by the Commission, out of which 41 files had been adopted as legal acts, four proposals had been withdrawn, one file is in the consultation procedure and one file is blocked. A majority (28) of these proposals reached the early second reading stage (where Parliament had adopted its first-reading position at the end of the previous term), while 13 proposals were agreed at the first reading stage.

For this term it is remarkable that while most MFF proposals were published in 2018 (35) and only two proposals in 2019, a total of 10 proposals were presented two years later, in 2020, as a reaction to the COVID-19 pandemic.

Notwithstanding the abovementioned challenging circumstances, Parliament worked with considerable speed: the committees took on average six months to adopt their reports, compared to the 11-month average during the 2014–2020 MFF. Out of all the committees, the ITRE, LIBE and REGI committees and the joint BUDG/ECON committee handled the highest number of MFF-related files during the term.

Chart 10: Distribution of MFF files per committee<sup>51</sup>



<sup>51</sup> This chart also includes the ECON/BUDG file 2018/0212(COD), which is still blocked, and the ITRE file 2018/0225(CNS), which was dealt with under the consultation procedure.



*Trilogue on the continuation of the Union's participation in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) under Horizon Europe © European Union 2023 – source: European Parliament*

## 5. Delegated and implementing acts

### 5.1. Legal challenges and interinstitutional negotiations

The use of delegated and implementing acts continued to be controversial in many legislative negotiations, despite reassurances given to the Council on the prior consultation of Member States' experts in the 2016 Interinstitutional Agreement on Better Law-Making (IIA on BLM)<sup>52</sup>, the adoption of the 2019 non-binding delineation criteria for the use of delegated and implementing acts<sup>53</sup>, and recent EU case-law<sup>54</sup>.

In many legislative proposals put forward during the ninth term, the Commission facilitated the interinstitutional negotiations by following the agreed delineation criteria. However, there were a number of difficult cases, in which the differing positions of the institutions on the respective Treaty provisions (Articles 290 and 291 TFEU) led to the Council and the Commission favouring implementing acts over delegated acts, although Parliament believed that the criteria for delegated acts had been fulfilled. In some instances, the Council even insisted on using Council implementing acts<sup>55</sup> when Parliament had opted for delegated acts. In other cases, the co-legislators agreed to refrain from the use of empowerments completely and preferred to specify the provisions of the basic act, as no agreement on empowerments had been possible. Finally, in many cases where implementing acts were finally agreed by the co-legislators, against Parliament's initial position, Parliament ensured that the implementing act had more detailed framing, which limited the empowerment to the very minimum.

#### *Alignment of RPS measures with the Treaty of Lisbon provisions*

On the basis of the legislative proposals to align RPS measures with the Treaty of Lisbon required by the 2016 IIA on BLM<sup>56</sup>, in the eighth term the co-legislators were able to agree on 64 of the less controversial acts<sup>57</sup>. Consequently, it was decided to split the legislative procedure into a part with the agreed acts and a part with the non-agreed files, enabling the co-legislators at least to adopt the agreed acts. However, interinstitutional negotiations on the remaining proposals (still more than 100 acts) were ongoing in the ninth parliamentary term, and while an agreement was reached on some of those files, the majority were left unaligned, which means that

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<sup>52</sup> OJ L 123, 12.5.2016, p. 1.

<sup>53</sup> OJ C 223, 3.7.2019, p. 1.

<sup>54</sup> Judgment of the Court of Justice of 28 February 2023, *Fenix International v Commissioners for Her Majesty's Revenue and Customs*, C-695/20, ECLI:EU:C:2023:127.

<sup>55</sup> During the negotiations of the temporary trade-liberalisation measures for Ukraine (2024/0028(COD)), a Member State lifted its veto on providing additional funds for Ukraine in the MFF revision under the condition that payments were made in the form of Council implementing acts as provided for in the European Council conclusions. A joint statement was nevertheless also adopted by which this would not constitute a precedent, and, therefore, for the similar Western Balkans Facility (2023/0397(COD)), the Council accepted Commission implementing acts for such payments.

<sup>56</sup> 'The three Institutions acknowledge the need for the alignment of all existing legislation to the legal framework introduced by the Lisbon Treaty, and in particular the need to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny. The Commission will propose that latter alignment by the end of 2016'.

<sup>57</sup> Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union, OJ L 198, 25.7.2019, p. 241.



they will be substituted for delegated or implementing acts only in the context of new Commission proposals as part of a review of the basic legislation.

### *Defending Parliament's prerogatives*

Parliament made some important achievements regarding the use of delegated and implementing acts in the ninth term. As the result of a coordinated effort in the negotiations on the sectoral MFF programmes, delegated acts were used in the Neighbourhood, Development and International Cooperation Instrument and the Instrument for Pre-Accession Assistance programmes in order to establish the specific objectives and thematic priority areas of cooperation, thereby providing a better framework for the (multiannual) work programmes that will be adopted by implementing acts, as well as increasing Parliament's scrutiny powers.

#### **Non-road mobile machinery circulating on public roads<sup>58</sup>**

Parliament was able to defend its prerogatives concerning technical and administrative requirements during the last trilogue. The proposed empowerments were clearly intended to supplement certain provisions of the basic legislative act. According to settled case-law, supplementing the provisions of a legislative act as regards its non-essential elements is reserved for delegated acts only and explicitly does not allow for the use of implementing acts. However, the Council had the opposite view and interpreted the respective case-law in a detrimental way, stressing that the CJEU had stipulated that the co-legislators had an entirely free choice with regard to delegated or implementing powers. The agreed delegated acts in both instances allowed Parliament to defend its institutional prerogatives successfully and provide for thorough scrutiny of any future secondary legislation in this field.

### *Rejections*

Between the entry into force of the Treaty of Lisbon and the end of the ninth parliamentary term, Parliament objected to 16 delegated acts in total, while 15 objections were rejected by plenary during the ninth term. Furthermore, Parliament objected to 19 RPS measures, including nine during the ninth legislative term. With regard to implementing acts, Parliament adopted 50 resolutions in the ninth legislative term, stating that the implementing measure in question exceeded the powers conferred on the Commission, although Parliament's opinion is not binding on the Commission (i.e. it has no right of veto).

## **5.2. Scrutiny of delegated and implementing acts and RPS measures**

Since the entry into force of the Treaty of Lisbon, Parliament has received an increasing number of delegated acts, from 166 during the seventh term, 646<sup>59</sup> during the eighth term to 901 during the ninth parliamentary term. The number of delegated

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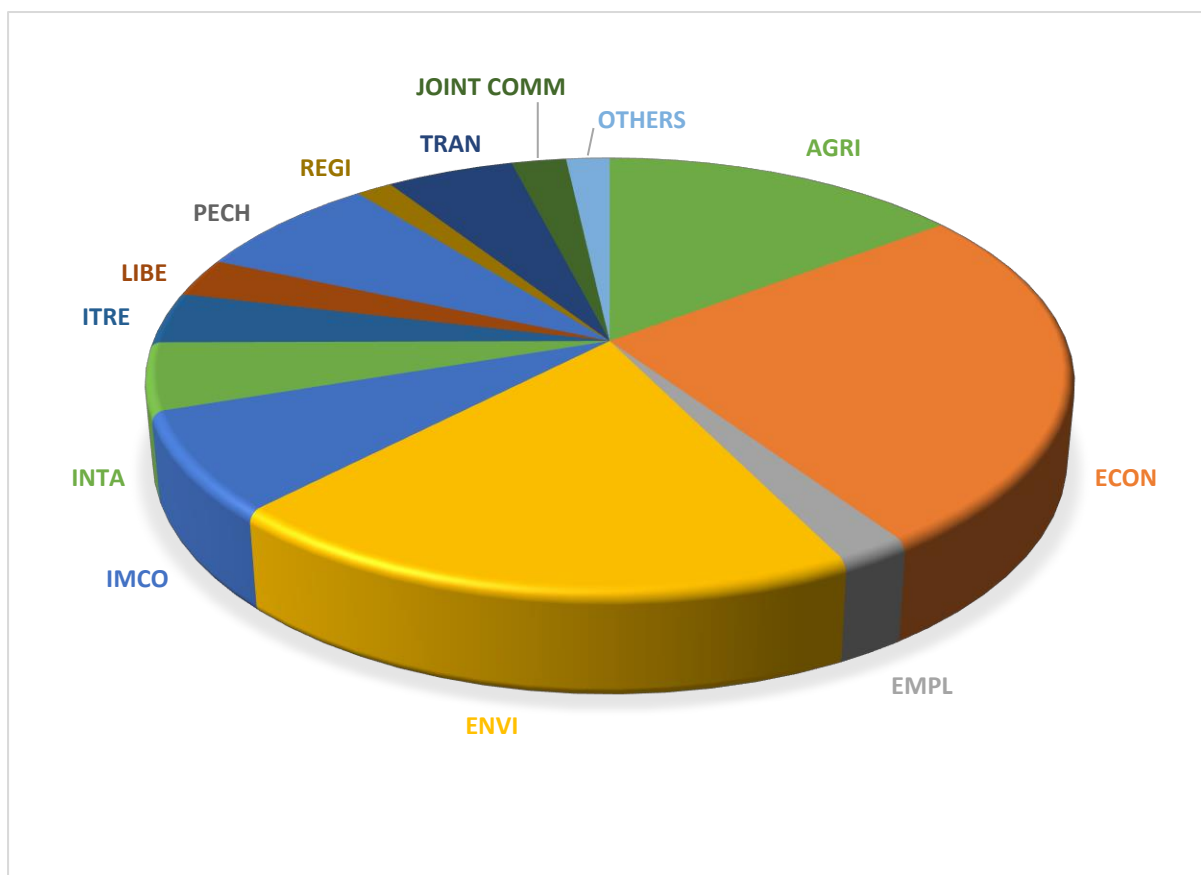
<sup>58</sup> Approval and market surveillance of non-road mobile machinery circulating on public roads, 2023/0090(COD).

<sup>59</sup> Update compared to the Mid-term Activity Report.



acts received according to the responsible parliamentary committee is shown in Chart 11.

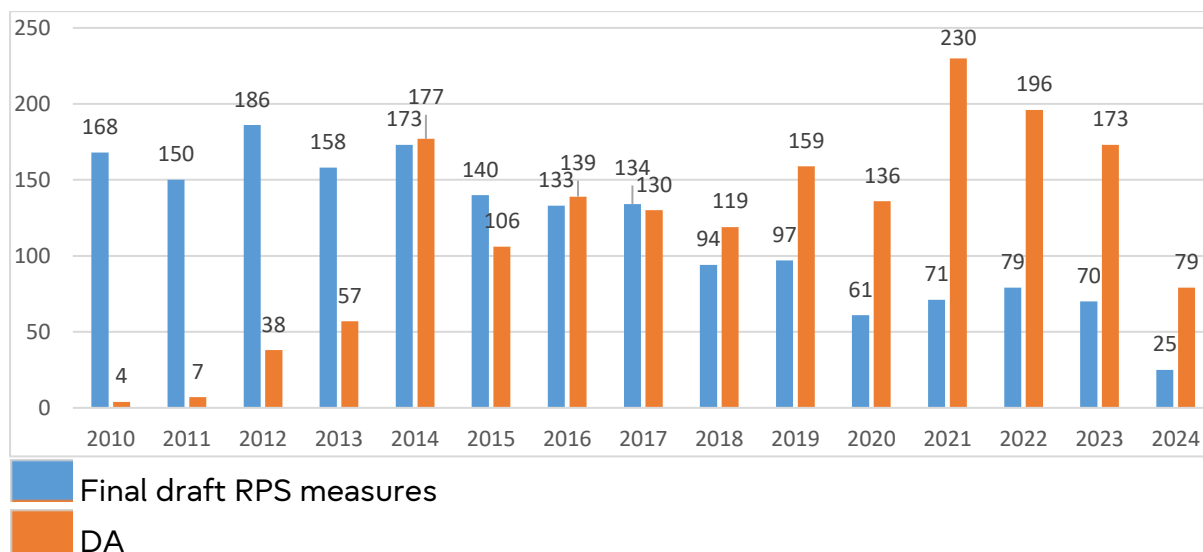
Chart 11: Number of delegated acts received by parliamentary committees since 2010 (until 31 May 2024<sup>60</sup>)



Interestingly, during the ninth as well as previous terms, the Commission proposed more rules in the form of both delegated and implementing acts than under the OLP.

<sup>60</sup> The election recess period for delegated acts and RPS measures started on 15 March 2024.

Chart 12: Final draft RPS measures and delegated acts (DA) submitted to Parliament per year (until 31 May 2024<sup>61</sup>)



As Chart 12 shows, Parliament is still receiving RPS measures (1976 since 2007, 359 of which during the ninth term) due to a number of legislative acts that remain unaligned with the Treaty of Lisbon.

*Interinstitutional agreement on the register on delegated and implementing acts (REGDIA)*

REGDIA was updated in 2024 to take into account developments over the last five years. It therefore now includes provisions on financing and on data protection.

*Early non-objections (ENOs)*

During the ninth term, the scrutiny activities in Parliament’s committees continued unabated in spite of the constraints related to Brexit, the COVID-19 pandemic and the war in Ukraine. In particular, Parliament adopted a high number of ENOs: 36 ENO procedures concerning delegated acts and five ENOs concerning RPS measures, of which 15 fell within the remit of ECON and 15 within the remit of AGRI. In total, 30 ENO procedures were adopted during the entire eighth legislative term. This trend can be partly explained by the urgency of some of the provisions related to the above crises, but there was also the late adoption of many delegated acts by the Commission, leading to the need for ENO procedures. In several instances, the Commission did not make use of the urgency procedure provided for in the basic act. Instead, it requested the ENO procedure, which is more cumbersome for Parliament as it involves three different layers of decision-making under extreme time constraints.

<sup>61</sup> The election recess period for delegated acts and RPS measures started on 15 March 2024.

## 6. International agreements

### 6.1 Parliament's involvement in international agreements

The Treaties give the European Parliament an active role – albeit with limitations – in the process of concluding most international agreements between the Union and third countries or international organisations. They also provide for a space for Parliament to influence these negotiations. The role of Parliament in this area has been enhanced, and not only with subsequent Treaty changes or interinstitutional agreements. It has also developed thanks to processes and structures put in place by the institution.

Parliament's powers concerning international agreements are generally set out in Article 218 TFEU, as interpreted in CJEU case-law. Parliamentary scrutiny effectively provides democratic legitimacy for the Union's process of negotiating and concluding international agreements and is therefore of crucial importance. The consent procedure, applied in almost all policy areas, requires the Council to obtain Parliament's consent before an international agreement can be concluded<sup>62</sup>.

Parliament can leverage its power of consent to influence the outcome of negotiations by providing its views on the content of an envisaged agreement. This is done by various means: plenary debates, resolutions and reports adopted before, during and even after negotiations (resolutions under Rules 117(3) and (4) and Rule 136, questions with debate and resolution (Rule 142), own-initiative (implementation) reports (Rule 55) and interim reports (Rule 107(5)).

Article 218(10) TFEU stipulates that: 'the European Parliament shall be immediately and fully informed at all stages of the procedure'. The IIA on BLM of 2016<sup>63</sup>, the FA of 2010<sup>64</sup> and other documents include various pledges from the other EU institutions to inform Parliament about the negotiation and implementation of international agreements. Even though the other institutions' Treaty obligation to inform Parliament applies to all of the Union's international agreements, the practice is rather uneven across different policy areas.

Parliament's role does not end with the conclusion of the agreement. Over the last decade, Parliament has increasingly drawn on its scrutiny powers at various levels, in order to be in a position to exercise its institutional prerogatives fully and throughout the process. In the ninth term Parliament obtained more specific commitments from the Commission related to the implementation phase. The Commission declarations ensure that Parliament receives sufficient and timely information on the meetings of the bodies set up by the UK Withdrawal Agreement and the EU-UK Trade and

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<sup>62</sup> Under the consultation procedure Parliament delivers its opinion to the Council.

<sup>63</sup> See footnote 54.

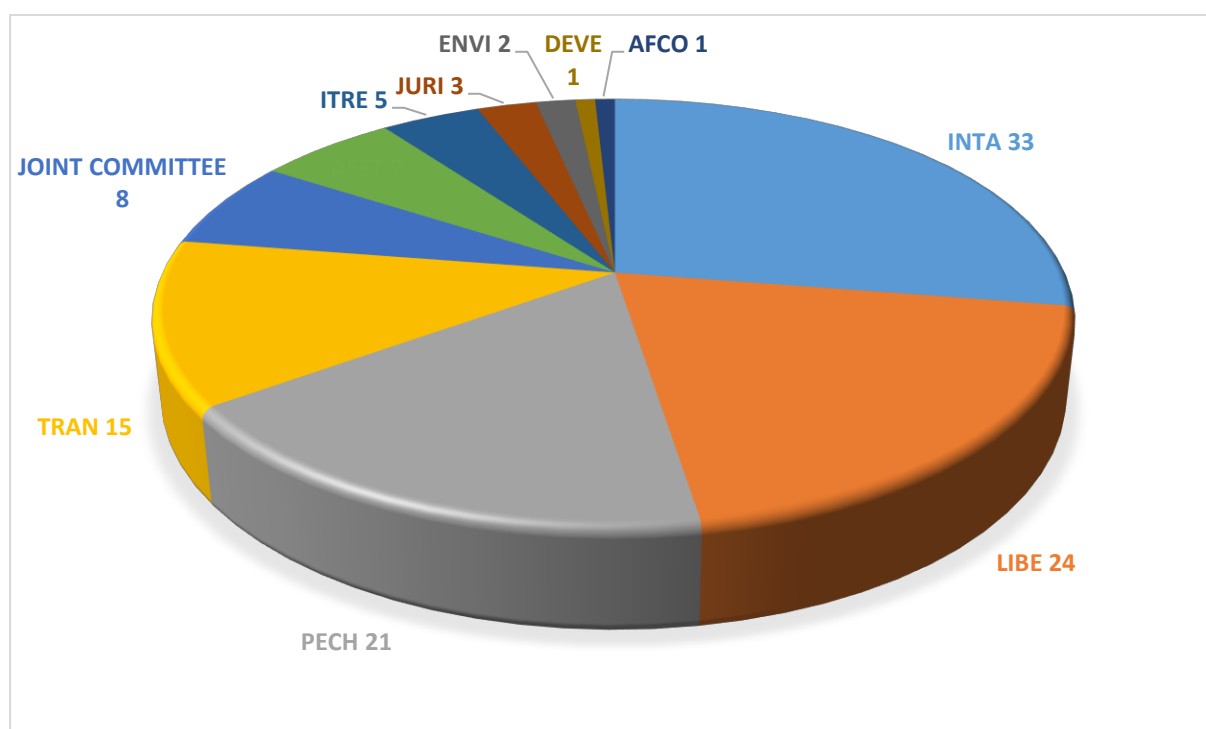
<sup>64</sup> See footnote 7.

Cooperation Agreement<sup>65</sup>, as well as on Parliament's involvement in certain specific decisions relating to these two exceptional agreements.

During the ninth parliamentary term, Parliament voted on 120 consent procedures<sup>66</sup> based on Article 218 TFEU and Article 50 TEU. Out of these, 32 agreements were (fully or partly) provisionally applied before Parliament had voted on its consent.

Over 60 % of the consent votes took place in the second half of the term. Unlike in the past, Parliament did not refuse to give its consent to an international agreement during the term. This could partly be due to improved interinstitutional cooperation, in particular with the Commission.

Chart 13: Distribution of consent procedures voted on by Parliament by lead committee 2019–2024



## 6.2. The UK Withdrawal Agreement and the EU-UK Trade and Cooperation Agreement

As concerns work on international agreements, the first half of the ninth parliamentary term was dominated by Brexit. Both the UK Withdrawal Agreement and the subsequent EU-UK Trade and Cooperation Agreement (TCA) were concluded in this period, and their implementation started, involving the European Parliament on different levels.

<sup>65</sup> The Joint Committee and the specialised committees set up under the UK Withdrawal Agreement, and the Partnership Council, the Trade Partnership Committee, the Trade Specialised Committees and the other Specialised Committees established under the EU-UK Trade and Cooperation Agreement.

<sup>66</sup> This number includes files referred in the ninth term, as well as files from the eighth term on which work was resumed and files where Parliament was reconsulted.

## *Role of the European Parliament*

Given that this was the first time that an EU Member State had withdrawn from the Union under Article 50 TEU, Parliament responded swiftly and exercised its institutional prerogatives.



*Consent vote on the Withdrawal Agreement of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community © European Union 2020 – source: European Parliament*

After Parliament's consent in January 2020, the Withdrawal Agreement entered into force the following month. The Brexit Steering Group, which ensured parliamentary coordination during the Withdrawal Agreement negotiations, was succeeded by a new ad hoc structure: the UK Coordination Group (UKCG). This group started its work in the beginning of February 2020, in time for the first round of negotiations between the EU and the UK on the TCA (2-5 March 2020). The UKCG kept abreast of the content of the negotiations practically on a weekly basis, even in the complex conditions of the emerging pandemic.

Parliament put procedures in place on several levels to allow parliamentary bodies to be properly involved, resulting in a number of strongly supported plenary resolutions, solidifying the Commission's position as Union negotiator and making Parliament's requirements for the agreement clear and public in the course of negotiations for the TCA. The negotiations' high level of political and technical complexity can be illustrated by the fact that they were concluded just seven days before the end of the transition period. The text was signed on 30 December 2020 and it provisionally applied from 1 January 2021. Parliament gave its consent on 28 April 2021.

An ad hoc structure, the UK Contact Group, replacing the UK Coordination Group, was set up by the CoP in June 2021 to facilitate coordination within Parliament on UK-related issues and to work closely with the new EU-UK delegation. The UK Contact Group is co-chaired by the INTA and AFET Chairs together with the Chair of the EU-UK Delegation. Four committees (AFET, INTA, IMCO and AFCO) have standing representatives in the contact group, while other committees participate according to the subject matter being discussed.

Implementation of the Withdrawal Agreement by the UK has proven complicated, and it remains under Parliament's scrutiny. Throughout the negotiations for the TCA, the most contentious issues included citizens' rights and fisheries. The implementation of the Protocol on Ireland and Northern Ireland, however, remained the major challenge even after the TCA's conclusion, due to its technical complexity and political sensitivity.

Actively applying its right to be informed specifically ahead of meetings of the Withdrawal Agreement Joint Committee, Parliament was informed about the development of the Windsor Framework, namely Joint Committee Decision 1/2023<sup>67</sup> amending the Protocol on Ireland/Northern Ireland (the Protocol). This decision resolved numerous issues concerning the implementation of the Protocol while protecting the integrity of the EU single market. Subsequently, Parliament carried out its task as co-legislator on regulations implementing the framework, for instance, on regulations relating to food, plants, seeds and pets in Northern Ireland, on medicinal products intended to be placed on the market of Northern Ireland, and on tariff rate quotas on certain steel products in Northern Ireland<sup>68</sup>.

### *Scrutiny of the implementation of the EU-UK agreements*

Parliament adopted implementation reports on the Withdrawal Agreement and on the TCA in plenary with strong majorities in March and November 2023 respectively.

Furthermore, the TCA provides for an EU-UK Parliamentary Assembly, consisting of the Members from the European Parliament and of the Members from the Parliament of the UK. Based on an informal understanding between them, it is composed of 70 members and the two parliaments are equally represented. The assembly is informed of the EU-UK Partnership Council's decisions and makes recommendations to it. Parliament appointed the members of its delegation in October 2021. The Parliamentary Assembly met four times in the ninth parliamentary term, alternating between Brussels and London<sup>69</sup>.

Various parliamentary bodies are currently involved in monitoring the EU-UK agreements and the general state of play of relations between the two, including the plenary, the CoP, the committees and the delegation to the EU-UK Parliamentary

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<sup>67</sup> Decision No 1/2023 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework, OJ L 102, 17.4.2023, p. 61.

<sup>68</sup> Regulation (EU) 2023/1231, OJ L 165, 29.6.2023, p. 103; Regulation (EU) 2023/1182, OJ L 157, 20.6.2023, p. 1; Regulation (EU) 2023/1321, OJ L 166, 30.6.2023, p. 1.

<sup>69</sup> <https://www.europarl.europa.eu/delegations/en/d-uk/activities/inter-parliamentary>.

Assembly. The role of the committees is particularly important, as they are responsible for the scrutiny of issues pertaining to their areas of competence. The intensity of involvement varies from one policy area to another, largely according to the extent to which it is covered in the TCA and the issues that come up in the course of implementation.





European Parliament