

Reviewing the implementation of specific Treaty provisions

On 22 January 2019, the European Parliament's Committee on Constitutional Affairs adopted three own-initiative reports, dealing with the implementation of the specific Treaty provisions on EU citizenship, enhanced cooperation and parliamentary scrutiny of the European Commission. Parliament is expected to discuss these reports during its February plenary session.

EU citizenship

Every person holding the nationality of a Member State is an EU citizen. Union citizens enjoy the rights to move and reside freely in other Member States, to vote and to stand as candidates in municipal and European elections, to petition the Parliament, to apply to the European Ombudsman, to start a European Citizens' Initiative, and to enjoy in a third country the protection of the diplomatic and consular authorities of any other Member State. Millions of EU citizens have made use of these and related rights, and their number is growing. According to the [Autumn 2018 Standard Eurobarometer](#), 71 per cent of respondents feel that they are citizens of the EU. While the majority of EU citizens know their rights stemming from EU citizenship, two-thirds say they would like to know more. At the same time, various studies highlight remaining shortcomings in the implementation of the existing legal framework, and point to [practical difficulties](#) and instances of discrimination EU citizens continue to face when moving across borders.

European Parliament position

Against this background, the Committee on Constitutional Affairs (AFCO) adopted an own-initiative [report](#) on the implementation of the Treaty provisions related to EU citizenship. It emphasises that EU citizenship is a unique construction, which has 'yet to realise its full potential'. It points to the remaining obstacles to free movement and calls for better implementation of the existing legal framework, including Treaty provisions and Directive 2004/38 ('Citizens' Rights Directive'). It encourages the Commission to act 'systematically' on Member States' breaches of the free movement provisions, and to seek a Court of Justice judgment on whether disenfranchisement of EU citizens violates EU law. It also calls upon Member States to 'take decisive action' to prevent instances of discrimination on grounds of nationality. The report expresses concern regarding the trend of declining turnout in European Parliament elections, and points to the role which strengthened EU citizenship could play in reversing this trend. It points to the essential role of promoting citizens' participation in the democratic life of the EU, including by means of civic education, and suggests extending – 'in line with the constitutional possibilities of each Member State' – the right of EU citizens to vote in all elections (not only municipal and European Parliament elections).

Enhanced cooperation

[Enhanced cooperation](#) is a procedure provided for in the Treaties, which enables a minimum of nine EU Member States to cooperate more closely in areas that do not fall under the exclusive competences of the EU. Special rules apply for enhanced cooperation in the common foreign and security policy. A number of substantive and procedural rules (Article 20 of the Treaty on European Union (TEU) and Articles 326-334 of the Treaty on the Functioning of the European Union (TFEU)) govern this mechanism, which was conceived as a 'last resort' means to achieve further integration among a group of Member States, while remaining open for other Member States to join. Use of the mechanism is authorised by the Council (qualified majority voting (QMV)) upon proposal of the Commission and is adopted with Parliament's consent. Even though it was revised with the Lisbon Treaty, enhanced cooperation has so far been used in only [seven cases](#): divorce law, property regime rules, unitary patent protection, a financial transaction tax, the European High Performance Computing Joint Undertaking, and two specific cases, the European Public Prosecutor's Office and permanent structured cooperation (PESCO). These cases are currently at different stages of [advance](#).

European Parliament position

The AFCO committee adopted an own-initiative [report](#) which acknowledges the potential of the enhanced cooperation mechanism and proposes a number of improvements to facilitate its use. The report suggests that a period of two consecutive Council presidencies should indicate that sufficient progress on a legislative proposal is lacking, thereby justifying use of enhanced cooperation as a 'last resort' initiative. It recommends using the *passerelle* clauses to switch to QMV and to the ordinary legislative procedure as of the authorisation of enhanced cooperation, and proposes including terms for relations with non-participating Member States in the authorisation. The report also encourages an active role for the Commission throughout the life of such instruments, and warns against parallel institutional arrangements. The report recommends an active role for Parliament through the power of legislative initiative (Article 225 TFEU) and stronger cooperation with Council prior to its request for Parliament's consent. The report suggests that while the operating expenditure of enhanced cooperation should be borne by the participating Member States, non-participating Member States should be reimbursed, unless Council decides, after consultation of Parliament, that the cost be borne by the EU budget. Litigation related to enhanced cooperation should fall in principle under the jurisdiction of the Court of Justice of the EU (CJEU), with the possibility to establish an arbitration procedure or dispute settlement in particular cases, while keeping the CJEU as a last instance court. As to the lack of provisions on exit or expulsion of a Member State from enhanced cooperation, the report suggests that the authorisation of enhanced cooperation should also contain terms and conditions for such an exit. It also invites the Commission to set guidelines on specific operational aspects (withdrawal, working of common institutions), in order to encourage more frequent use of this mechanism.

Parliament's power of political control over the European Commission

The exercise of [political control](#) over the Commission is one of Parliament's prerogatives, which is guaranteed by Article 14 TEU. The exercise of political oversight is the foundation of the principle of democracy and accountability that underpins and guarantees the democratic control of the EU executive. In this respect, the European Parliament, the only directly elected European institution, is entitled to exercise a number of powers which are either provided for in the Treaties or further specified in other sources such as the Framework Agreement on relations between the European Parliament and the European Commission, the Interinstitutional Agreement on Better Law-making, or in Parliament's rules of procedure.

European Parliament position

The AFCO committee adopted an own-initiative [report](#) aiming to strengthen the powers of Parliament, to facilitate the accomplishment of its prerogatives of political control over the Commission. The report supports the continuation of the *Spitzenkandidaten* practice, which is praised for having established a closer political link between Parliament and Commission. In the context of a future Treaty change, the report suggests exploring the possibilities for lowering the threshold required for the adoption of a motion of censure of the Commission, a weapon seldom submitted to Parliament, but with a high deterrent effect. Currently the adoption of such censure requires two-thirds of the votes cast representing the majority of the component members of Parliament. The report also suggests the establishment of a true bicameral legislative system represented by the Council and Parliament, with the Commission acting as the executive. When it comes to political oversight through the approval of the budget and the discharge procedure, the report underlines the political nature of such procedures, which also increases Parliament's political leverage. The report regrets, however, the lack of power for Parliament to scrutinise the Council's budget and proposes Parliament's control cover the totality of the EU's budget. It recalls that even though Parliament does not have a formal right of legislative initiative under the current Treaties, the possibility to gain the right of legislative initiative in the context of a future Treaty change should be given serious consideration. Moreover it calls for Treaty changes to establish direct accountability of individual Commissioners vis-à-vis Parliament during their term of office. A strengthening of the right of inquiry is also called for, in order to allow the effective exercise of Parliament's prerogatives.

Own-initiative reports: Committee responsible: AFCO; EU citizenship [2018/2111\(INI\)](#), Rapporteur: Maite Pagazaurtundúa Ruiz (ALDE, Spain); Enhanced cooperation [2018/2112 \(INI\)](#), Rapporteur: Alain Lamassoure (EPP, France); Parliament's power of political control over the Commission [2018/2113\(INI\)](#), Rapporteur: Mercedes Bresso (S&D, Italy).

