



TEXTS ADOPTED

P8_TA(2019)0078

Implementation of the Treaty provisions on Parliament's power of political control over the Commission

European Parliament resolution of 12 February 2019 on the implementation of the Treaty provisions on Parliament's power of political control over the Commission (2018/2113(INI))

The European Parliament,

- having regard to the Treaty provisions concerning the political oversight of the European Parliament over the European Commission and in particular Articles 14, 17 and 25 of the Treaty on European Union (TEU) and Articles 121, 159, 161, 175, 190, 225, 226, 230, 233, 234, 249, 290, 291, 319 and 325 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Article 17 TEU, which entrusts the Commission with promoting the general interest of the Union and a monopoly on taking initiatives ‘to that end’,
- having regard to the Framework Agreement on relations between the European Parliament and the European Commission,
- having regard to the interinstitutional agreement (IIA) on better law-making of 2016 and the interinstitutional agreement on budgetary discipline, on cooperation in budgetary matters and on sound financial management of 2013,
- having regard to its resolution of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty¹,
- having regard to its resolution of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union²,
- having regard to its decision of 7 February 2018 on the revision of the Framework Agreement on relations between the European Parliament and the European Commission, and especially paragraphs 2 and 8 thereof, which further reaffirm that the *Spitzenkandidaten* process consists of a successful constitutional and political practice

¹ OJ C 252, 18.7.2018, p. 215.

² OJ C 252, 18.7.2018, p. 201.

reflecting the interinstitutional balance provided for in the Treaties¹,

- having regard to its legislative resolution of 16 April 2014 on a proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament’s right of inquiry and repealing Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission², and to the ongoing interinstitutional negotiations,
 - having regard to the report of the European Ombudsman on Meetings and Inspection of Documents – Joint Complaints 488/2018/KR and 514/2018/KR on the Commission’s Appointment of a new Secretary-General, and to its recommendation on those cases,
 - having regard to its Rules of Procedure, including Rule 52, as well as Article 1(1)(e) of, and Annex 3 to, the decision of the Conference of Presidents of 12 December 2002 on the procedure for granting authorisation to draw up own-initiative reports,
 - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Budgetary Control (A8-0033/2019),
- A. whereas the institutional framework of the Union as enshrined in the Treaties confers on Parliament, as a legislative body of the Union, the responsibility of political oversight over the Commission;
- B. whereas Parliament has at its disposal a set of instruments to call the Commission to account, such as the motion of censure (Articles 17 TEU and 234 TFEU), the ability to ask the President of the Commission to withdraw his or her confidence in an individual member of the Commission (Rule 118(10) of Parliament’s Rules of Procedure), the right of inquiry (Article 226 TFEU), the competence of scrutiny over delegated and implementing acts (Articles 290 and 291 TFEU), the right to ask oral and written questions (Article 230(2) TFEU), and the right to institute legal proceedings against the Commission on an issue of legality (Article 263 TFEU) or in case of failure to act by the Commission;
- C. whereas, in addition to these instruments, Parliament has an array of tools for steering oversight, thanks to which it can proactively shape the European political agenda;
- D. whereas the budget is the most important tool of the European Union for fulfilling its objectives and strategies, and therefore budgetary control is of utmost importance;
- E. whereas the *Spitzenkandidaten* process reflects the interinstitutional balance between Parliament and the Commission, and has thus substantially consolidated and strengthened the link between the two institutions, leading to a greater politicisation of the Commission, which should result in increased parliamentary scrutiny of its executive functions;
- F. whereas Article 17 TEU provides for the President of the Commission to be elected by Parliament on a proposal by the EU heads of state and government, taking into account the results of the European elections and consultations with Parliament; whereas Article

¹ OJ C 463, 21.12.2018, p. 89.

² OJ C 443, 22.12.2017, p. 39.

17 TEU also provides that the same procedure should be followed in the event that Parliament were to reject the proposed candidate, including the consultation of Parliament;

- G. whereas all commissioners-designate are subject to a hearing before the investiture of the College of Commissioners, and whereas over its mandate Parliament can review the commitments and priorities expressed by the commissioners-designate during their appointment hearings, including an evaluation of whether their personal backgrounds qualify them for fulfilling the requirements the office demands;
- H. whereas the Treaties give Parliament the right to vote on a motion of censure against the Commission as a whole but not to withdraw its confidence in an individual Commissioner;
- I. whereas despite the collective responsibility of the College of Commissioners, Parliament should ensure effective political oversight of the individual work of each Commissioner;
- J. whereas the recent appointment of the new Secretary-General of the Commission has raised serious concerns over the role and political influence exercised by senior Commission officials;
- K. whereas a new, rule-abiding procedure for filling the post of Secretary-General of the Commission should be conducted when the new President of the Commission and the new Commissioners are appointed in 2019;
- L. whereas the Commission has Treaty-based obligations to report regularly to Parliament: yearly on the general activities of the Union (Article 249 TFEU); every three years on the application of the provisions on non-discrimination and citizenship of the Union (Article 25 TFEU); on the results of multilateral surveillance in economic policy (Article 121(5) TFEU); every three years on the progress made on social policy (Articles 159 and 161 TFEU); every three years on the progress made towards achieving economic, social and territorial cohesion (Article 175 TFEU); yearly on research activities in the Union (Article 190 TFEU); yearly on the fight against fraud (Article 325 TFEU); and when conducting negotiations with third countries or international organisations (Article 207 TFEU);
- M. whereas, moreover, as far as secondary legislation is concerned, the Commission is instructed to review and evaluate various directives and regulations and report on its findings;
- N. whereas with the adoption of the Framework agreement on relations between the European Parliament and the European Commission, Parliament has gained additional leverage in the shaping of the legislative agenda as proposed by the Commission every year in the Commission Work Programme (CWP);
- O. whereas since the adoption of the Lisbon Treaty Parliament has become a true co-legislator in the budgetary field and has the responsibility to give discharge to the Commission for the implementation of the Union budget;
- P. whereas following the entry into force of the Lisbon Treaty Parliament has expanded its influence over the scrutiny of EU external policies, by obtaining the power of consent

over the conclusion of international agreements and, therefore, the right to be immediately and fully informed by the Commission at all stages of the negotiation of such agreements (Article 218 TFEU, Article 50 TEU);

- Q. whereas the conditions under which negotiations took place with the United Kingdom on its withdrawal from the European Union were exemplary in terms of their transparency and the involvement of Parliament;
- R. whereas the extent of Parliament's scrutiny rights varies greatly between delegated acts and implementing acts; whereas Parliament has the right to veto a delegated act and/or to revoke the delegation, but in the case of implementing acts its involvement is much less far-reaching;
- S. whereas the current institutional structure of the Union and the lack of precise definition of the executive in the Treaties make the concept of EU executive complex and scattered across the European, national and regional levels;
- T. whereas stronger cooperation between the European Parliament and national and regional parliaments, in line with their respective constitutional competences and in accordance with Article 10(2) TEU, is key to addressing the issue of parliamentary control of executive functions when it comes to the implementation of European legislation;
- U. whereas the transparency and strong involvement of Parliament in the negotiations with the United Kingdom has had a positive impact on their outcome, creating a climate of trust and unity, and should therefore serve as inspiration for future international negotiations practices;

Main conclusions

1. Recalls that scrutiny over the EU bodies is one of the main roles of the European Parliament and that the accountability of the Commission to Parliament is an underpinning principle of the functioning of the EU and of internal democratic control;
2. Believes that Parliament is not making full use of all its instruments of political control over the executive, owing to a variety of reasons, some being inherent to the institutional structure of the Union and others being, for example, the results of the changing interinstitutional dynamics, which have made some of the instruments difficult to apply or not sufficiently effective;
3. Acknowledges the potential and successful implementation of the *Spitzenkandidaten* process, whereby all European citizens have a direct say in the choice of the president of the Commission by means of a vote for a list headed by their preferred candidate; therefore strongly supports continuing this practice for future European elections and encourages all political forces to participate in this process;
4. Recalls that the stronger political link created between Parliament and the Commission as a result of the *Spitzenkandidaten* process should not make the Commission subject to less stringent parliamentary oversight;
5. Recalls that the intention of the threshold enshrined in the Treaties for a motion of censure is to preserve the effective use of this instrument for serious cases;

acknowledges that, as in most parliamentary democracies, the possibility of a motion of censure works mostly as a deterrent; proposes, nonetheless, in the context of future Treaty change, to study or examine possibilities to lower the threshold in a measured way, while maintaining the institutional balance envisaged by the Treaties;

6. Points out that the politicisation of the Commission is a direct consequence of the changes introduced by the Lisbon Treaty; notes that these changes did not include the adoption of provisions that would allow holding individual commissioners to account;
7. Deeply deplores the fact that in the words of the Ombudsman, the Commission ‘failed to comply with either the letter or the spirit of the relevant rules’ when appointing its Secretary-General;
8. Points out that the Treaties do not provide a clear definition of the EU executive and that the institutions responsible differ across the various policy areas, depending on whether they are considered to belong to the shared or to the exclusive competences of the Union;
9. Considers it necessary to establish a genuinely bicameral legislative system involving the Council and Parliament, with the Commission acting as the executive;
10. Points out that Parliament’s role of oversight towards the executive is complemented by similar competences of the national parliaments over their own executives when dealing with European affairs; takes the view that such accountability is the keystone of the role of national parliamentary chambers in the European Union;
11. Considers that the exercise of control by Parliament over the executive pursuant to Article 14 TEU has been made difficult, if not sometimes impossible, by the lack of a clear catalogue of Union competences and policies and by the multilayered attribution of competences between European, national and regional executives;
12. Recalls that the Treaties do not confer any legislative functions or right of legislative initiative on the European Council; is concerned that in recent years the European Council has, against the spirit and the letter of the Treaties, taken a number of important political decisions outside of the Treaty framework, thereby de facto excluding those decisions from the oversight of Parliament and undermining the democratic accountability which is essential with regard to such European policies;
13. Recalls that the Treaty provides Parliament with significant powers of political control through the annual budgetary and discharge procedures;
14. Recalls that the discharge is an annual political procedure ensuring ex-post democratic control over the implementation of the European Union budget by the Commission under its own responsibility and in cooperation with the Member States;
15. Points out that the discharge procedure has proved to be a powerful tool that has had an impact on the positive evolution of the EU’s budgetary system, financial management, the shaping of the agenda and the way EU policies are defined and implemented, while contributing to increasing Parliament’s political leverage;
16. Stresses that Article 318 TFEU adds a new instrument to the toolbox of budgetary discharge: the evaluation of the finances of the Union based on the results achieved;

17. Notes with concern that no real legal sanction is available if Parliament decides not to grant discharge to the Commission; considers, nevertheless, that not granting discharge sends out a strong political signal, as it implies that Parliament does not have sufficient confidence in the Commission's accountability, and should thus not be left unanswered by the Commission but lead to definitive follow-up action designed to improve the situation;
18. Regrets the fact that in the absence of sincere cooperation by the Council, it is not possible to scrutinise the Council's budget through the institutional practice of budgetary discharge by Parliament, and that this situation constitutes a serious failure to comply with the Treaty obligations stipulating that Parliament shall scrutinise the whole of the Union's budget;
19. Suggests, with a view to extending Parliament's power of budgetary control to the whole of the Union budget, that negotiations be launched between the Council, the Commission and Parliament so as to ensure Parliament has the right to access information on how the Council is implementing its budget, either directly or via the Commission, and that the Council answers written questions from Parliament and attends hearings and debates on the implementation of its budget; takes the view that, should these negotiations fail, Parliament should grant discharge to the Commission only and include in the overall discharge separate resolutions concerning the Union's various institutions, bodies and agencies, thereby ensuring that no section of the EU budget is implemented without proper scrutiny;
20. Recalls that the institutions have not yet delivered on their commitment to establish criteria for the delineation of the use of delegated and implementing acts, even though the IIA on better law-making has improved the transparency of the delegated acts procedure;
21. Recalls that in accordance with Article 247 of the Financial Regulation, the Commission must communicate to Parliament by 31 July of the following financial year, an integrated set of financial and accountability reports including, in particular, the final consolidated accounts, the annual management and performance report and the evaluation on the Union's finances based on the results achieved as referred to in Article 318 TFEU; insists that the annual management and performance report should include an assessment of all preventive and corrective measures taken against funding falling prey to corruption or conflicts of interest;

Recommendations

22. Suggests that the instruments for calling the Commission to account and those for steering scrutiny should be combined in order to maximise the effectiveness of both;
23. Insists that Parliament's legislative powers and rights of oversight must be guaranteed, consolidated and strengthened, including through interinstitutional agreements and through the use of the corresponding legal basis by the Commission;
24. Considers it necessary for Parliament to reform its working methods in order to strengthen the exercise of its functions of political control over the Commission;
25. Calls on the Commission to take more serious account of the legislative initiatives

launched by Parliament under Article 225 TFEU; calls on the next Commission President to commit to this objective and welcomes the respective statements of *Spitzenkandidaten* in this regard; wishes to see more initiatives result in legislative proposals; recalls that in accordance with Article 10 of the IIA on better law-making, the Commission is bound to give prompt and detailed consideration to requests for proposals for Union acts;

26. Commends the Commission for its positive follow-up to Parliament's recommendations expressed in its resolution of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty;
27. Considers that even though Parliament does not have a formal right of legislative initiative under the current Treaties, the possibility to be given the right of legislative initiative in the context of a future Treaty change should be given serious consideration;
28. Encourages the exchange of best practices in parliamentary scrutiny among national parliaments, such as the holding of regular debates between the respective ministers and the specialised committees in national parliaments before and after Council meetings, and with Commissioners in an appropriate setting and timeframe, as well as meetings between the European Parliament and national parliaments; encourages the establishment of regular exchanges of officials of institutions and political group staff between the administrations of the European Parliament and national parliaments, the European Committee of the Regions and the Member State regions having legislative competences;
29. Believes that the establishment of an annual European week would allow MEPs and Commissioners, notably Vice-Presidents in charge of clusters, to stand before all national parliamentary assemblies to discuss and explain the European agenda alongside MPs and representatives from civil society; suggests that this initiative could reinforce the democratic accountability of the Commission required by the Treaty of Lisbon;
30. Calls on Parliament to reinforce its capacity for scrutinising the preparation and implementation of delegated and implementing acts;
31. Welcomes the efforts presently undertaken by the three institutions to establish clear criteria to delineate how delegated and implementing acts should be used; calls for these criteria to be applied as soon as possible;
32. Encourages national parliaments, as well as regional parliaments where appropriate, to increase their capacity to scrutinise their executives when taking decisions or proposing regulations in order to implement or delegate European legislation;
33. Considers it necessary in a future Treaty change to improve the instruments for holding individual commissioners accountable to Parliament throughout their term of office, building on the somewhat limited existing provisions in the Framework Agreement on relations between the European Parliament and the European Commission;
34. Calls on the Commission and the Council, in accordance with the principle of fair cooperation, to establish a political dialogue on Parliament's proposal for a regulation on the right of inquiry, in order to entrust Parliament with effective powers allowing it to exercise this basic parliamentary instrument for controlling the executive, which is

absolutely indispensable in parliamentary systems all over the world;

35. Is convinced of the usefulness of parliamentary questions as an oversight tool; considers it necessary, therefore, to undertake an in-depth assessment of the quality of the answers provided by the Commission to Members' questions, as well as on the quantity and quality of the questions asked by Members;
36. Considers question time to be an important element of parliamentary scrutiny over the executive; requests the Conference of Presidents to put question time back on the plenary agenda, in line with Rule 129 of the Rules of Procedure;
37. Calls once again on the Commission to review its administrative procedures for the appointment of its Secretary-General, Directors-General and Directors, with the objective of fully ensuring that the best candidates are selected within a framework of maximum transparency and equal opportunities;

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38. Instructs its President to forward this resolution to the Council, the Commission, the national parliaments of the Member States and the European Committee of the Regions.