



2020/2132(INI)

22.3.2021

OPINION

of the Committee on Legal Affairs

for the Committee on Constitutional Affairs

on Parliament's right of initiative
(2020/2132(INI))

Rapporteur for opinion (*): Pascal Durand

(*) Associated committee – Rule 57 of the Rules of Procedure

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SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas the Commission ‘shall promote the general interest of the Union and take appropriate initiatives to that end’; whereas Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise, as laid down in Article 17 of the Treaty on European Union (TEU);
- B. whereas the Treaties grant Parliament the direct right of initiative only in very limited cases, namely with regard to its own composition, the election of its Members and their Statute, the Statute of the European Ombudsman, and in order to initiate a rule of law procedure, set up temporary committees of inquiry and initiate Treaty revisions; whereas Parliament has the right to request the Commission to submit any appropriate proposal on matters it considers relevant for a Union act for the purpose of implementing the Treaties, according to Article 225 of the Treaty on the Functioning of the European Union (TFEU); whereas Rule 47 of the Rules of Procedure of the European Parliament further details this indirect right of initiative;
- C. whereas Article 225 of the TFEU obliges the Commission to give reasons in the event that it does not submit a legislative proposal as requested by Parliament; recalls thereby the compulsory character of this Treaty provision;
- D. whereas the European Parliament is the only directly elected EU institution, which at the same time has fewer legislative initiative powers than most national parliaments;
- E. whereas before she was elected President of the Commission, Ursula von der Leyen committed to responding to legislative initiatives when adopted by a majority of Parliament’s members and in full respect of the proportionality, subsidiarity and better law-making principles;
- F. whereas the Conference on the Future of Europe will be an avenue for further reflection with civil society on how to best strengthen Parliament’s right of initiative with regard to better law-making;
- G. whereas the existing imbalance in terms of EU agenda-setting powers between the Commission, the Council and Parliament is deplorable, notably in policy areas where the Commission does not enjoy an exclusive right of initiative and where the Council is not under any obligation to consult Parliament, namely in the areas of Economic and Monetary Union and the common foreign and security policy, where competences were transferred to the High Representative of the Union and to the European External Action Service;
- 1. Believes that the Commission’s right of legislative initiative, as set out in the Treaties, has been neither constructive nor productive in recent years, with a decrease in the Commission’s output over the past decade; stresses that Parliament is a democratically elected body which, unlike most national parliaments, does not have a formal right of

legislative initiative and therefore the fact that the Commission has the exclusive direct right of legislative initiative creates an issue of democratic legitimacy that has to be addressed; strongly recommends therefore that the Committee on Constitutional Affairs further exploit Parliament's powers assigned by the Treaties and that it analyse different options, including a Treaty revision to give Parliament a direct right of legislative initiative;

2. Stresses that the European Council has a de-facto right of initiative within the area of freedom, security and justice in accordance with Article 68 of the TFEU, which does not reflect the legislative equality between Parliament and Council as provided for in the Interinstitutional Agreement on Better Law-Making ('IIA BLM')¹; underlines moreover the early influence by the Member States via their participation in numerous Commission advisory bodies and urges the Commission to assure the same level of participation to Parliament;
3. Believes that Parliament should have an enhanced direct right of legislative initiative, as it directly represents European citizens and needs to counter-balance national interests; deplores therefore that this possibility has been regularly deferred to a future Treaty revision;
4. Believes that Parliament should make full use of the current Treaty provisions in order to enhance its influence on initiating legislation and to pave the way for obtaining the direct right of initiative;
5. Further stresses that changes to the IIA BLM, as well as the Framework Agreement ('2010 FA')², can enhance legislative agenda-setting powers for Parliament and thereby recalibrate the institutional balance without formally changing the Treaties;
6. Proposes that Parliament consider developing political sponsorship for ideas put forward by the European Economic and Social Committee or the European Committee of the Regions within the framework of Article 225 of the TFEU;
7. Believes that, in accordance with Article 15 of Regulation (EU) 2019/788³, in the event that the Commission, within the given deadlines, has failed to publish its intentions, or has set out in a communication that it intends not to take action on a European citizens' initiative (ECI) which has met the procedural requirements and is in line with the Treaties, in particular the core values of the Union enshrined in Article 2 of the TEU, Parliament could decide to follow up the ECI with a legislative own-initiative report (INL); urges the Commission to commit itself to submitting a legislative proposal following Parliament's adoption of such an INL; proposes, in this regard, to modify the 2010 FA;
8. Deeply regrets that only one-third of Parliament's legislative and non-legislative initiative procedures can be considered successful and that most INL reports adopted

¹ Interinstitutional Agreement of 13 April 2016 between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1.

² Framework Agreement on relations between the European Parliament and the European Commission, OJ L 304, 20.11.2010, p. 47.

³ Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 on the European citizens' initiative, OJ L 130, 17.5.2019, p. 55.

since 2011 have not been followed up by the Commission submitting any appropriate proposals⁴; regrets also that, to date, the three-month deadline for the Commission to react to a parliamentary resolution, as laid down in paragraph 16 of the 2010 FA, and the one-year deadline for the Commission to come forward with a legislative proposal in response to a legislative initiative report have consistently not been respected;

9. Is of the opinion that INL reports in the area of the ordinary legislative procedure, with only one addressee and clearly defined proposals within the scope of the report and within realistic timeframes, have a greater chance of being translated into legislative proposals by the Commission; recommends in this respect that the Committee on Constitutional Affairs invites the Commission to the negotiating table in order to slightly extend the relevant deadlines and to accommodate alleged organisational difficulties with regard to the 2010 FA and thereby enhance the Commission's responsiveness to Parliament's resolutions; expects in return, however, that the Commission translate an INL report automatically into a concrete legislative proposal;
10. Considers that the IIA BLM plays an essential role in securing sincere and transparent cooperation throughout the entire legislative cycle and allows for a better and mutual understanding to be achieved of the respective positions of the different institutions; calls for an assessment of the extent to which the IIA BLM should be revised with the purpose of eliminating possible barriers to Parliament's powers to propose legislative initiatives;
11. Emphasises that Parliament fully respects the IIA BLM which stresses the necessity of a prior 'European added value' analysis, as well as a 'cost of non-Europe' assessment;
12. Recalls that Parliament has a structure for impact assessment activities which must be undertaken, to the extent that it is possible to do so, before presenting an INL report in order to enhance the European added value assessment provided for in the IIA BLM;
13. Suggests, as part of the Conference on the Future of Europe, studying the possibility of introducing mechanisms of direct participation, such as citizens' assemblies, in order to grant EU citizens the opportunity to express themselves and thereby engage in the EU law-making process;
14. Urges the Commission, as the guardian of the Treaties, to adhere to its responsibilities and to honour its own commitments; urges the Commission to systematically involve Parliament prior to any decision being taken on the Commission Work Programme, including its prior approval by Parliament, in order to enhance Parliament's agenda-setting powers in the meantime, before its direct right of initiative is established;
15. Is of the opinion that Article 294 of the TFEU should be revised in the sense that, if the Commission fails to implement Parliament's request for a legislative act in the area of the ordinary legislative procedure, and within the set timeline, its resolution adopted by a majority of its component members shall form the basis for a legislative procedure to

⁴ Study '*The European Parliament's right of initiative*', Andreas Maurer, University of Innsbruck, Jean Monnet Chair for European Integration Studies and Michael C. Wolf, University of Innsbruck, July 2020, pages 55 and 57.

be initiated by Parliament itself;

16. Considers that, were the Commission not to submit a legislative proposal and fail to provide proper reasons as required by Article 225 of the TFEU, following Parliament's request, this would constitute a failure to act and Parliament would reserve its right to take systematic action on the basis of Article 265 of the TFEU; furthermore considers that it might constitute a cause for Parliament to initiate a motion of censure on the activities of the Commission, in accordance with Article 234 of the TFEU.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	18.3.2021
Result of final vote	+: 20 -: 3 0: 2
Members present for the final vote	Manon Aubry, Gunnar Beck, Geoffroy Didier, Pascal Durand, Angel Dzhambazki, Ibán García Del Blanco, Esteban González Pons, Mislav Kolakušić, Gilles Lebreton, Karen Melchior, Jiří Pospíšil, Franco Roberti, Marcos Ros Sempere, Stéphane Séjourné, Raffaele Stancanelli, Marie Toussaint, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann, Tiemo Wölken, Lara Wolters, Javier Zarzalejos
Substitutes present for the final vote	Patrick Breyer, Andrzej Halicki, Heidi Hautala, Ilhan Kyuchyuk, Antonius Manders, Sabrina Pignedoli, Jérôme Rivière, Nacho Sánchez Amor

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

20	+
PPE	Geoffroy Didier, Esteban González Pons, Antonius Manders, Jiří Pospíšil, Axel Voss, Marion Walsmann, Javier Zarzalejos
S&D	Ibán García Del Blanco, Franco Roberti, Marcos Ros Sempere, Tiemo Wölken, Lara Wolters
Renew	Pascal Durand, Karen Melchior, Stéphane Séjourné, Adrián Vázquez Lázara
Verts/ALE	Patrick Breyer, Marie Toussaint
The Left	Manon Aubry
NI	Mislav Kolakušić

3	-
ID	Gunnar Beck, Gilles Lebreton, Jérôme Rivière

2	0
ECR	Angel Dzhambazki, Raffaele Stancanelli

Key to symbols:

+ : in favour

- : against

0 : abstention