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## TEXTS ADOPTED

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### **P9\_TA(2022)0242**

#### **Parliament's right of initiative**

#### **European Parliament resolution of 9 June 2022 on Parliament's right of initiative (2020/2132(INI))**

*The European Parliament,*

- having regard to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU),
- having regard to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission, as amended<sup>1</sup> (2010 Framework Agreement),
- having regard to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making<sup>2</sup> (Interinstitutional Agreement on Better Law-Making),
- having regard to its resolution of 16 February 2017 on improving the functioning of the European Union building on the potential of the Lisbon Treaty<sup>3</sup>,
- having regard to its resolution of 16 February 2017 on possible evolutions of and adjustments to the current institutional set-up of the European Union<sup>4</sup>,
- having regard to its resolution of 13 February 2019 on the state of the debate on the future of Europe<sup>5</sup>,
- having regard to its resolution of 15 January 2020 on the European Parliament's position on the Conference on the Future of Europe<sup>6</sup>,
- having regard to its resolution of 18 June 2020 on the European Parliament's position on the Conference on the Future of Europe<sup>7</sup>,

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<sup>1</sup> OJ L 304, 20.11.2010, p. 47.

<sup>2</sup> OJ L 123, 12.5.2016, p. 1.

<sup>3</sup> OJ C 252, 18.7.2018, p. 215.

<sup>4</sup> OJ C 252, 18.7.2018, p. 201.

<sup>5</sup> OJ C 449, 23.12.2020, p. 90.

<sup>6</sup> OJ C 270, 7.7.2021, p. 71.

<sup>7</sup> OJ C 362, 8.9.2021, p. 6.

- having regard to the political guidelines for the next European Commission 2019- 2024 presented by its President, Ursula von der Leyen, on 16 July 2019 entitled ‘A Union that strives for more – My agenda for Europe’,
  - having regard to the study of July 2020 commissioned by Parliament and entitled ‘The European Parliament’s right of initiative’,
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the opinions of the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Constitutional Affairs (A9-0142/2022),
- A. whereas Article 15 TEU specifies that the European Council must not exercise legislative functions;
- B. whereas Parliament is the only EU institution democratically and directly elected by the citizens; whereas, contrary to the constitutional systems of Member States, Parliament has no general direct right of legislative initiative, which, pursuant to Article 17(2) TEU, lies with the Commission, except where the Treaties state otherwise;
- C. whereas the Treaties grant an indirect right of legislative initiative as, pursuant to Article 225 TFEU, ‘the European Parliament may, acting by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties’;
- D. whereas Article 225 TFEU also stipulates that ‘if the Commission does not submit a proposal, it shall inform the European Parliament of the reasons’;
- E. whereas Parliament’s own-initiative reports and resolutions constitute an important tool for setting the EU political agenda;
- F. whereas, under the 2010 Framework Agreement, the Commission committed to reporting on the concrete follow-up on any Parliament request to submit a proposal pursuant to Article 225 TFEU within three months following adoption of the relevant resolution in plenary; whereas, when the Commission does not comply with this obligation, it could constitute failure to act pursuant to Article 265 TFEU;
- G. whereas only one third of Parliament’s legislative and non-legislative initiative procedures up to 2019 can be considered successful and most legislative own-initiative reports (INLs) adopted since 2011 were not followed up by the Commission through the submission of any appropriate proposals until 2019<sup>1</sup>;
- H. whereas the Interinstitutional Agreement on Better Law-Making stipulates that the Commission must adopt a specific communication on the follow-up to such requests and that if it ‘decides not to submit a proposal in response to such a request, must

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<sup>1</sup> European Parliament Directorate-General for Internal Policies, Policy Department for Citizens’ Rights and Constitutional Affairs, study entitled ‘The European Parliament’s right of initiative’, Brussels, 2020, pp. 55 and 57.

‘provide, where appropriate, an analysis of possible alternatives and respond to any issues raised by the co-legislators in relation to analyses concerning “European added value” and concerning the “cost of non-Europe”’;

- I. whereas the Treaties grant Parliament direct rights of initiative on its own composition, the election of its Members and their Statute, the Statute of the European Ombudsman and Parliament’s right of inquiry, for which a special procedure applies, and on initiating procedures related to respect for the rule of law and Treaty revisions;
- J. whereas Parliament’s direct rights of initiative are far from sufficient to allow it to represent the voice of citizens, civil society and the social partners within the European institutions, effectively leaving the Commission with a monopoly on the exercise of legislative initiative;
- K. whereas a more prominent role for Parliament in setting the Union’s agenda by strengthening Parliament’s right of initiative also requires an extension of the ordinary legislative procedure to other policy fields and reinforcing interinstitutional cooperation;
- L. whereas Parliament produced a particularly ambitious legislative initiative on the establishment of an EU mechanism on democracy, rule of law and fundamental rights, adopted in October 2016<sup>1</sup> and 2020<sup>2</sup> by inviting the Commission and the Council to enter into negotiations with Parliament on an interinstitutional agreement in accordance with Article 295 TFEU; whereas the rule of law is one of the areas where Parliament’s right of initiative could be developed;
- M. whereas granting Parliament a direct right of initiative would rebalance the Union’s legislative process;
- N. whereas empirical evidence shows that the success of Parliament’s initiatives depends essentially on the decision-making procedure followed by the Council (qualified majority or unanimity)<sup>3</sup>;
- O. whereas in its resolution on the state of the debate on the future of Europe, Parliament recalled that ‘in the event of a possible future revision of the Treaties, the right of legislative initiative could also be attributed to Parliament as the direct representative of EU citizens’; whereas the Conference on the Future of Europe has been, among other things, a historic opportunity to promote the reform of European democracy and the Treaties with the involvement of citizens;
- P. whereas on the digital platform of the Conference on the Future of Europe, European democracy was one of the issues which obtained the most contributions from citizens;

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<sup>1</sup> Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (OJ C 215, 19.6.2018, p. 162).

<sup>2</sup> Resolution of 7 October 2020 on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights (OJ C 395, 29.9.2021, p. 2).

<sup>3</sup> European Parliament Directorate-General for Internal Policies, Policy Department for Citizens’ Rights and Constitutional Affairs, study entitled ‘The European Parliament’s right of initiative’, Brussels, 2020, p. 12.

- Q. whereas in its resolution on possible evolutions of and adjustments to the current institutional set-up of the European Union, Parliament proposed ‘that in line with the common practice in a number of Member States, both chambers of the EU legislature, the Council and, in particular, the Parliament, as the only institution directly elected by citizens, should be given the right of legislative initiative, without prejudice to the basic legislative prerogative of the Commission’;
- R. whereas Parliament’s Rules of Procedure determine the rules for drafting and adopting resolutions under Article 225 TFEU; whereas a distinction in practice exists between own-initiative (INI) and INL reports; whereas the 2010 Framework Agreement and the Interinstitutional Agreement on Better Law-Making do not make such a distinction;

***The direct right(s) of initiative of Parliament established by the Treaties***

1. Emphasises and regrets that Parliament, despite being the only directly elected EU institution, does not have a general direct right of initiative;
2. Underlines that the Treaty of Lisbon already bestows direct rights of initiative on Parliament, acknowledging its competence to self-organise, its scrutiny function and its democratic legitimacy as the only directly elected EU institution;
3. Highlights that in an institutional set-up where Parliament does not yet have a general direct right of initiative, the special legislative procedures that it initiates have special constitutional dignity and primacy over ordinary legislative procedures;
4. Recalls that in the past 20 years, Parliament has repeatedly made use of such special legislative rights, insufficient as they are; regrets, however, that these special legislative procedures have too seldom been successfully concluded due to the lack of agreement by the Commission and the Council<sup>1</sup>;
5. Highlights that Parliament made use of its right of initiative by launching a rule of law procedure under Article 7 TEU; condemns the Council’s lack of follow-up to this procedure and to Parliament’s subsequent, repeated calls for action and points out that the Council’s failure to make effective use of Article 7 TEU continues to undermine the integrity of common European values, mutual trust and the credibility of the Union as a whole; deems it essential to ensure a full and immediate implementation of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget<sup>2</sup> while respecting Parliament’s role as co-legislator; considers that the Union remains structurally unprepared to counter backsliding on democracy, the rule of law and fundamental rights and their violation in the Member States; believes that the deterioration on these issues in various Member States has shown the need for genuine interinstitutional cooperation; deeply regrets the lack of proper response to Parliament’s initiative on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights and reiterates its call on the Commission and the Council to enter without delay into negotiations with Parliament on an interinstitutional agreement;

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<sup>1</sup> Ibid., pp. 34-35.

<sup>2</sup> OJ L 433 I, 22.12.2020, p. 1.

6. Reiterates its reasoned proposal on the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded; reiterates its deep concern that the standard procedures for hearings do not ensure equal treatment of Parliament, on the one hand, and the Commission and one third of the Member States, on the other, when it comes to presenting a reasoned proposal and in terms of access to information; expresses its regret that the hearings have not yet resulted in any significant progress on addressing clear risks of a serious breach of EU values;
7. Regrets that three Member States have not yet ratified the amended European Union electoral law adopted in 2018;
8. Regrets, further, that the Council has to date refused to negotiate with Parliament on its right of inquiry, although this contradicts Article 226 TFEU and the principle of sincere cooperation, leaving a provision of the Treaty unimplemented despite a duty to do so;
9. Welcomes the adoption of the new Statute of the European Ombudsman, following Parliament's initiative, which ensures that the Statute is consistent with the Treaty of Lisbon;

***The rights of initiative of the Council and the European Council established by the Treaties***

10. Regrets that in the area of economic and monetary policy, Article 121 TFEU merely provides for Parliament to be informed; also notes that the Council has exercised Article 121 TFEU as a de facto right of initiative in this area, and demands further responsibilities for Parliament as the only EU institution representing the voice of the citizens;
11. Acknowledges, furthermore, that Article 68 TFEU has been exercised as a de facto right of initiative by the European Council in the area of freedom, security and justice; highlights the fact that the European Council is not a co-legislator, and that the adoption by the European Council of multiannual operational programmes in this area without any obligation to consult Parliament or the Commission should be revised given the particularly serious impact of these policies on citizens' fundamental rights; calls for Parliament and the Council to be given this competence on equal terms in an upcoming Treaty revision;
12. Notes that pursuant to Article 76 TFEU, the Council, through a quarter of its Member States, has a right of initiative that is concurrent with that of the Commission on cooperation on administrative law and police and judicial cooperation in criminal matters;
13. Notes that these developments are part of a wider trend toward an increasing imbalance between the Council, the European Council and the Commission in decision-making power across all policy fields, to varying degrees; stresses that this practice erodes the institutional architecture of the EU as established by the Treaties; believes that the balance should be restored in favour of democratic legitimacy through equivalent rights for Parliament;
14. Notes with concern the lack of transparency in the use of Council's indirect right of initiative laid down in Article 241 TFEU; calls on the Council to publish, in a user-friendly manner and in all the official languages of the European Union, all requests

made using this legal basis and insists on its call for the Council to ensure the highest possible level of transparency in all its acts<sup>1</sup>, with full adherence to the EU rules on access to documents;

***Parliament's indirect right of initiative established by the Treaties***

15. Recalls that since the Maastricht Treaty, Parliament, in an acknowledgement of its unique democratic legitimacy, has had the right to ask the Commission to submit legislative proposals;
16. Notes that in accordance with Article 225 TFEU, requests must be within the remit of competence of the Union and that currently the Commission's sole obligation is to inform Parliament of its reasons for not presenting a proposal;
17. Recalls that Parliament and the Commission agreed to further enhance this right through the 2010 Framework Agreement; notes that the Commission committed to report on its follow-up on Parliament requests within three months and, if so decided by the college, present a legislative proposal;
18. Believes that the time has come to show more ambitious political will and therefore calls for consideration to be given to a review of the 2010 Framework Agreement with the goal of ensuring stronger rights of initiative for Parliament;
19. Regrets that, until 2019, in its follow-up on Parliament's legislative initiative reports adopted pursuant to Article 225 TFEU the Commission had only submitted legislative proposals following Parliament requests in a minority of cases<sup>2</sup>; further regrets that the deadlines for the Commission to respond to Parliament requests and to put forward legislative proposals were not met in most cases;
20. Considers that the sole obligation of the Commission to inform Parliament of its reasons not to follow up on an INL adopted by a majority of Parliament's component Members to be far too weak, and therefore welcomes in the strongest terms Commission President von der Leyen's support for Parliament's right of initiative and the commitment made to always respond with a legislative act to Parliament requests under Article 225 TFEU, with full respect for the principles of proportionality, subsidiarity and better law-making; expects the Commission to uphold this commitment to initiate legislation following the adoption of any such request by Parliament adopted by the majority of its component Members in an INL; considers that this commitment should be enhanced and Parliament's power to influence the EU agenda should be strengthened;

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<sup>1</sup> Resolution of 17 January 2019 on the Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the EU (OJ C 411, 27.11.2020, p. 149).

<sup>2</sup> European Parliament Directorate-General for Internal Policies, Policy Department for Citizens' Rights and Constitutional Affairs, study entitled 'The European Parliament's right of initiative', Brussels, 2020, p. 54.

21. Commends the current College of Commissioners on replying to all of Parliament's requests in a timely manner<sup>1</sup>, except in one case<sup>2</sup>; highlights, furthermore, that only in one case did a request not result in a legislative proposal; considers this to demonstrate that an interinstitutional precedent has been established and expects the Commission to continue to honour its commitment to reply to all requests;
22. Believes that reflection about Parliament's right of initiative has to go hand in hand with wider reflection on political initiative in the EU decision-making process;
23. Suggests that the follow-up on European Citizens' Initiatives (ECIs) should be improved and stresses that if the Commission has failed to publish its intentions within the given deadlines, or has set out in a communication that it intends not to take action on an 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 TEU, Parliament could decide to follow up the ECI with an INL;

### *The future of Parliament's right(s) of initiative*

24. Is deeply convinced that a general and direct right of initiative would further strengthen the democratic legitimacy of the Union, empower Union citizens and would reflect the evolution over time of the competences of the Union and its institutions towards a stronger European democracy;
25. Is of the opinion that Parliament, as the only directly elected EU institution, should be granted the right to propose legislation;

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<sup>1</sup> Replies from the Commission to the following Parliament resolutions:

- resolution of 8 October 2020 with recommendations to the Commission entitled 'Digital Finance: emerging risks in crypto-assets – regulatory and supervisory challenges in the area of financial services, institutions and markets' (OJ C 395, 29.9.2021, p. 72);
- resolution of 22 October 2020 with recommendations to the Commission on an EU legal framework to halt and reverse EU-driven global deforestation (OJ C 404, 6.10.2021, p. 175);
- resolution of 20 October 2020 with recommendations to the Commission entitled 'Digital Services Act: adapting commercial and civil law rules for commercial entities operating online' (OJ C 404, 6.10.2021, p. 31);
- resolution of 20 October 2020 with recommendations to the Commission on entitled 'Digital Services Act: Improving the functioning of the Single Market' (OJ C 404, 6.10.2021, p. 2);
- resolution of 20 October 2020 with recommendations to the Commission on a framework of ethical aspects of artificial intelligence, robotics and related technologies (OJ C 404, 6.10.2021, p. 63);
- resolution of 20 October 2020 with recommendations to the Commission on a civil liability regime for artificial intelligence (OJ C 404, 6.10.2021, p. 107);
- resolution of 21 January 2021 with recommendations to the Commission on the right to disconnect (OJ C 456, 10.11.2021, p. 161).

<sup>2</sup> Reply from the Commission to Parliament's resolution of 13 May 2020 with recommendations to the Commission entitled 'A safety net to protect the beneficiaries of the EU programmes: setting up an MFF contingency plan' (OJ C 323, 11.8.2021, p. 2).

26. Strongly believes that the Treaties should be revised so that Parliament, as the only directly elected EU institution and hence the institution that represents the voice of the citizens in the EU decision-making process, is granted a general and direct right to initiate legislation; stresses that Parliament should initiate the procedure under Article 48 TEU to establish such right of legislative initiative; takes the view that Parliament's right of initiative should at least apply in those policy fields in which Parliament is empowered to enact legislation as co-legislator;
27. Stresses that the Conference on the Future of Europe was an unprecedented opportunity to address current shortcomings and give new impetus to European democracy and strongly encourages following the recommendation of the participants in the Conference in favour of a genuine right of initiative for Parliament;
28. Reiterates the special and reinforced constitutional dignity of the matters which Parliament currently has the right of initiative on, and considers therefore that such an exclusive right should be extended to matters where democratic legitimacy and sovereignty of the Union are especially relevant;
29. Notes that Parliament's current rights of initiative encompass different special legislative procedures, such as in the case of regulations relating to its own composition, the election of its Members and their Statute, the Statute of the European Ombudsman as well as Parliament's right of inquiry;
30. Considers that the Treaties barely regulate such procedures and calls for a new interinstitutional agreement between the three institutions devoted exclusively to this matter, with full respect for its special constitutional dignity and enhancing the democratic legitimacy of the European Union; considers that this new interinstitutional agreement could contemplate measures to avoid files being institutionally blocked;
31. Considers that Parliament's internal rules should better reflect the special nature of these legislative procedures; recommends, in particular, that where the adoption of an act by Parliament requires the approval or consent of the Council and the opinion or consent of the Commission, Parliament should, following the vote on the proposed act, enter into a consultation procedure with these institutions; is also of the opinion that Parliament should streamline the procedures for changing these proposed acts following such consultations;
32. Believes that the extension of the ordinary legislative procedure and defining an ordinary legislative procedure where Parliament enjoys the right of initiative should be seen as complementary processes;
33. Considers that the recognition of a direct right of initiative of Parliament would not exclude the possibility of the Commission retaining a concurrent right or keeping a monopoly of initiative such as in the area of the budget; could also envisage that the Council would have a direct right of initiative in strictly defined areas; calls on the three institutions to reflect on how concurrent rights of initiative could effectively co-exist and be implemented in practice;
34. Commits to fully use, develop and further strengthen the potential of Parliament's indirect right of initiative as provided for in the Treaties and further developed in

interinstitutional agreements and through Commission President von der Leyen's commitment;

35. Considers that the Interinstitutional Agreement on Better Law-Making 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 on the respective positions of the different institutions;
36. Calls for a joint assessment of the functioning of the 2010 Framework Agreement and the need for a targeted revision to ensure that its provisions and timeframes related to Parliament's indirect right of initiative can be effectively upheld; also calls on the Council and the Commission to assess jointly with Parliament the extent to which the Interinstitutional Agreement on Better Law-Making should be revised with the purpose of eliminating possible barriers to Parliament's powers to propose legislative initiatives;
37. Considers it appropriate to review its internal rules, procedures and requirements, including with regard to the drafting of legislative initiative reports under Article 225 TFEU to ensure that proposals are focused and well-substantiated; suggests streamlining the procedures outlined in Parliament's Rules of Procedure for drafting and adopting resolutions under Article 225 TFEU to ensure that any request to the Commission for a legislative initiative is adequately taken into account, always respecting the Interinstitutional Agreement on Better Law-Making, regardless of the parliamentary resolution that includes the request;
38. Commits to favouring these instruments as the primary means to request the submission of legislative proposals by the Commission; points, in this regard, to the need to address requests to the Commission alone and to ensure that the content of legislative initiative reports remains within the scope of the subject matter of the report as decided; underlines that the adoption of focused and well-substantiated reports under Article 225 TFEU by Parliament requires that the necessary technical and administrative capacity is ensured;
39. Stresses the importance of ensuring close cooperation with the Commission throughout the life cycle of legislative initiative reports so as to ensure that the process is as effective, transparent and inclusive as possible; highlights the roles of the Conference of Committee Chairs and the Conference of Presidents in this regard;
40. Emphasises that Parliament fully respects the Interinstitutional Agreement on Better Law-Making, which stresses the necessity of a prior European added value analysis, as well as a cost of non-Europe assessment, and that it has a structure for impact assessment activities to 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 Interinstitutional Agreement on Better Law-Making;
41. Believes that the Commission, when assessing the principles of subsidiarity, proportionality and better law-making as part of its follow-up on Parliament requests for legislative proposals under Article 225 TFEU, should take due account of the accompanying analyses concerning European added value and the cost of non-Europe produced by Parliament; points out that under the Interinstitutional Agreement on Better Law-Making, the Commission is already obliged to respond to any issues raised by the co-legislators in relation to such analyses;

42. Believes, furthermore, that the Commission should clearly link draft proposals adopted following a proposal by Parliament pursuant to Article 225 TFEU to relevant INL reports, providing a clear ‘legislative influence footprint’;
43. Commits to fostering stronger coordination with the Committee of the Regions and with the Economic and Social Committee by taking due account of their opinions within the framework of Article 225 TFEU;
44. Reiterates that accessibility, ethics and transparency are paramount and must guide the activities of all the EU institutions; calls for all the relevant information on legislative initiative reports, such as internal procedural steps or the Commission’s follow-up, to be made easily available online in all the official languages of the European Union;
45. Reiterates the importance of the pre-legislative phase and recalls the role of Parliament as provided for in the Interinstitutional Agreement on Better Law-Making and the 2010 Framework Agreement; calls for work on the establishment of a joint legislative database to be sped up, as stipulated in the Interinstitutional Agreement on Better Law-Making;
46. Recalls the importance of citizens’ and civil society participation for the democratic legitimacy of the EU; calls on all EU institutions to involve them in a meaningful way in decision-making at all stages of the policy cycle;  

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47. Instructs its President to forward this resolution to the European Council, the Council, the Commission and the governments and parliaments of the Member States.