Implementation of the Treaty provisions on special legislative procedures

2023/2083(INI) - 13/12/2023 - Text adopted by Parliament, single reading

The European Parliament adopted by 389 votes to 186, with 53 abstentions, a resolution on the implementation of Treaty provisions concerning special legislative procedures.

Parliament recalled that EU primary law introduces two main procedures for the adoption of legislative acts: the ordinary legislative procedure and the special legislative procedure. These respective procedures involve Parliament and the Council to differing degrees.

Members regretted the fact that in most special legislative procedures, Parliament lacks full participatory and decision-making rights. They called for **Parliament's role in special legislative procedures to be strengthened** in order to enable it to engage fully and on an equal footing in negotiations with the Council.

Acts adopted by the Council or the European Council on the initiative of Parliament and after receiving its consent

Parliament pointed out that the Treaty of Lisbon bestows direct rights of initiative on Parliament, encompassing different special legislative procedures that pertain to its competence to self-organise, its scrutiny function and its democratic legitimacy, including electoral processes, as the only directly elected EU institution. They regretted the fact that these special legislative procedures have **too seldom been successfully** concluded due to the lack of agreement of the Commission and the requirement of unanimity voting in the Council.

Members regretted the **deadlock** in the negotiations with the Council and the Commission on the right of inquiry and deplored the fact that the Council and the Commission did not engage sufficiently with Parliament with the aim of holding formal discussions. Members recalled that the protracted unwillingness of the Council to react to Parliament's proposal constitutes a violation of Article 265 TFEU, and, therefore, a clear case of failure to act. They called on the Council and the Commission to comply with the principle of mutual sincere cooperation enshrined in Article 13(2) TEU and to engage with Parliament in order to overcome the current institutional blockage before the end of this legislative term.

On 3 May 2022, Parliament adopted its **position on the proposal for the reform of the European electoral law**. While acknowledging that some Member States have expressed reservations about certain elements of this proposal, Member deplored, however, the undue postponement of the commencement of negotiations on Parliament's report, which disregards the principle of sincere cooperation. They reiterated that the lack of unanimity on a draft legislative report does not represent a valid justification for not engaging in the identification of a compromise. They urged the Spanish and Belgian Council Presidencies to make this file a priority and to engage in consensus building with a view to developing a Council position in order to work towards reaching an agreement with Parliament on reforming the European electoral law before the next European elections.

The resolution recommended that the legislative procedure resulting from the right of legislative initiative conferred on Parliament by the Treaties should include a request to establish a **legislative timetable** for the initiatives concerned, along the lines of the one for the ordinary legislative procedures.

Special legislative procedure requiring Parliament's consent

Members recalled that, on 15 June 2023, Parliament adopted a draft proposal for a European Council decision on the **composition of the European Parliament** for the 2024-2029 legislative term, seeking to adjust the distribution of seats to ensure a degressively proportional representation of Member States. They regretted the fact that, contrary to its request expressed in its position of 15 June 2023 on the composition of the European Parliament, the European Council changed its proposal considerably and failed to inform Parliament regarding its intention to delete key provisions of the proposal submitted by Parliament.

Parliament regretted however the increasing role of the European Council in negotiations on the **multiannual financial framework** (MFF), which severely alters the principle of interinstitutional balance as established by the Treaties. It holds the view that the ordinary legislative procedure should apply to negotiations on the MFF and that Parliament should be given full budgetary powers.

Special legislative procedure requiring Parliament's consultation

Members emphasised that, although the Council is not obliged to take Parliament's opinion into account, the consultation of Parliament in the context of some special legislative procedures not only constitutes an essential procedural requirement, but also sends a strong political signal and enhances the decision's democratic legitimacy. They called on the three institutions to **explore possible avenues to ensure that Parliament's opinion is duly taken into account** as an institutional obligation and reflected in legislation.

One of the cases in which the Council may only take a decision after consulting Parliament pertains to the application of the provisions of the Schengen acquis. Members reiterated their call on the Council to immediately adopt a positive decision on the accession of Romania and Bulgaria to the Schengen area of free movement.

Members regretted the fact that the Commission's reply to Parliament's position on the proposal for a Council directive laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for mobile Union citizens, for which Parliament's consultation is required was extremely negative. They await the Council's discussion of this file and expect the Council, furthermore, to deal with its opinion and do its best to cooperate with Parliament on reaching an improvement for mobile Union citizens.

Cooperation between the institutions

Parliament recalled that the duty of mutual **sincere cooperation** between the institutions requires the institutions to keep each other informed and consult each other so that consent may be given at the end of the procedure. It insisted, therefore, that consent is not a mere validation or rejection, but actually entails an adherence to the contents of the legislative act and should therefore be the result of a constant dialogue aimed at finding a mutually acceptable agreement through sincere cooperation.

Recommendations

Parliament called on the Commission to immediately launch a **proposal to review the Interinstitutional Agreement on Better Law-Making** with the objective of defining the special legislative procedures. It underlined that the revised interinstitutional agreement should devote a specific focus to procedures where Parliament enjoys the right of initiative, the legal justifications of vetoes in the Council and fostering full respect for the respective participatory rights and the principles of institutional balance and mutual sincere cooperation in special legislative procedures.

Parliament insisted:

- the need to define precise requirements on the **time frame for the adoption or refusal** of an act by the Council;

- on the call to **release the public positions** of the Member States at the moment of the adoption of an act by the Council;

- the **Treaties to be amended** urgently to expand the application of the ordinary legislative procedure to some policy areas where special legislative procedures are currently envisaged, for example to issues related to the Schengen area or to the MFF;

- on the **immediate activation of passerelle clauses** to move from special legislative procedures to ordinary legislative procedures in key policy fields in order to improve the EU's capacity to act, pending the entry into force of changes to the Treaties.