Basic information

2018/2112(INI) INI - Own-initiative procedure	Procedure completed
Implementation of the Treaty provisions concerning enhanced cooperation **Subject** 8 State and evolution of the Union 8.30 Treaties in general	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AFCO Constitutional Affairs	LAMASSOURE Alain (PPE)	21/03/2018
	Shadow rapporteur BRESSO Mercedes (S&D) MESSERSCHMIDT Morten (ECR) GOERENS Charles (ALDE) SCHOLZ Helmut (GUE/NGL) DURAND Pascal (Verts/ALE) CASTALDO Fabio Massimo (EFDD) ANNEMANS Gerolf (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	ZDECHOVSKÝ Tomáš (PPE)	04/06/2018

European Commission

Commission DG	Commissioner
Secretariat-General	TIMMERMANS Frans

Key events

Date	Event	Reference	Summary
14/06/2018	Committee referral announced in Parliament		
22/01/2019	Vote in committee		
29/01/2019	Committee report tabled for plenary	A8-0038/2019	Summary
11/02/2019	Debate in Parliament		
12/02/2019	Decision by Parliament	T8-0077/2019	Summary
12/02/2019	Results of vote in Parliament		
12/02/2019	End of procedure in Parliament		

Technical information	
Procedure reference	2018/2112(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Implementation
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/8/13386

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE629.770	06/11/2018	
Amendments tabled in committee		PE631.969	07/12/2018	
Committee opinion	LIBE	PE631.776	11/01/2019	
Committee report tabled for plenary, single reading		A8-0038/2019	29/01/2019	Summary
Text adopted by Parliament, single reading		T8-0077/2019	12/02/2019	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2019)327	17/07/2019	

Implementation of the Treaty provisions concerning enhanced cooperation

2018/2112(INI) - 29/01/2019 - Committee report tabled for plenary, single reading

The Committee on Constitutional Affairs adopted the own-initiative report by Alain LAMASSOURE (EPP, FR) on the implementation of the Treaty provisions concerning enhanced cooperation.

As a reminder, according to the Treaties, enhanced cooperation can be initiated by at least nine Member States under the framework of European policies, except for the areas of exclusive EU competences. It enables participating States to organise greater cooperation than that initially provided for by the Treaties under the policy concerned.

The Union has a particular interest in implementing enhanced cooperation in certain areas of non-exclusive EU competences in order to move forward the European project and to facilitate the life of citizens. It allows those participating Member States to achieve a common goal or initiative and to overcome paralysis in negotiations or a blockage by another Member State or Member States when unanimity is required.

Main observations

Members expressed concern by the fact that even though enhanced cooperation offers a solution to a common problem, by taking advantage of the Union institutional structure and thereby reducing the administrative costs for the participating Member States, it has not completely eliminated the need to resort to forms of intergovernmental subgrouping solutions outside the Treaties, which have a negative impact on how consistently the EU legal framework is applied and therefore lead to a lack of appropriate democratic scrutiny.

The EU's single institutional framework should be preserved in order to achieve its common objectives and guarantee the principle of equality of all citizens. The Community or Union method should be upheld.

Even though enhanced cooperation, due to its nature as a last resort measure, has not been used extensively since its inception in the Treaty of Amsterdam, it seems to be gaining importance and delivers tangible results. It often arises in areas governed by a special legislative procedure requiring unanimity, and has predominantly been used in the area of justice and home affairs.

Members recommended:

- the special 'passerelle clause' to be activated to switch from unanimity to QMV, and from a special to the ordinary legislative procedure, immediately after an agreement on the start of enhanced cooperation is approved by the Council, in order to avoid new blockages if the number of participating Member States is significant;

- the Commission play an active role in all stages of enhanced cooperation from the proposal through the deliberations to the implementation of enhanced cooperation;

- Parliament to play a stronger role in enhanced cooperation by suggesting to the Commission new forms of cooperation and by monitoring proposals or existing cooperation;

- Parliament to improve its internal organisation in relation to enhanced cooperation and for ad-hoc subcommittees to be set up in which full membership is primarily given to those Members elected in the Member States that are participating in such enhanced cooperation.

Budget

Members stated that operating expenditure linked to enhanced cooperation should be borne by the participating Member States, and if this cost is borne by the EU budget, the non-participating Member States should be reimbursed, unless the Council, after consulting Parliament, decides that such cooperation is to be funded by the EU budget, thereby making such expenditure part of the latter and therefore subject to the annual budgetary procedure.

If the activity regulated by enhanced cooperation generates revenue, this revenue should be assigned to cover the operating expenditure linked to the enhanced cooperation.

Jurisdiction

Members considered that enhanced cooperation should fall under the direct jurisdiction of the Court of Justice of the European Union (CJEU), without prejudice to the possibility of establishing an arbitration procedure or a dispute settlement court of first instance that could be required for the functioning of a particular case of enhanced cooperation, unless the Treaty provides otherwise, which should be specified in the legal act establishing such enhanced cooperation.

Adjustments and the future evolution of enhanced cooperation

The report proposed the creation of a special enhanced cooperation unit in the Commission, under the leadership of the Commissioner responsible for inter-institutional relations, to coordinate and streamline the institutional setting up of enhanced cooperation initiatives.

Members considered it necessary to devise a procedure for the fast-track authorisation of enhanced cooperation in fields of high political salience to be accomplished within a shorter timeframe than the duration of two consecutive Council presidencies.

They called on the Commission to propose a regulation in order to simplify and unify the relevant legal framework for enhanced cooperation (for example, the guiding principles on the applicable law for common institutions or a Member's withdrawal), thereby facilitating the conclusion of such cooperation.

Implementation of the Treaty provisions concerning enhanced cooperation

2018/2112(INI) - 12/02/2019 - Text adopted by Parliament, single reading

The European Parliament adopted by 457 votes to 154 with 64 on the implementation of the Treaty provisions concerning enhanced cooperation.

As a reminder, according to the Treaties, enhanced cooperation can be initiated by at least nine Member States under the framework of European policies, except for the areas of exclusive EU competences. It enables participating States to organise greater cooperation than that initially provided for by the Treaties under the policy concerned.

The Union has a particular interest in implementing enhanced cooperation in certain areas of non-exclusive EU competences in order to move forward the European project and to facilitate the life of citizens. Parliament stressed that enhanced cooperation should not be seen as an instrument of exclusion or division of the Member States, but as a pragmatic solution to advance European integration, and to overcome paralysis in negotiations or a blockage by another Member State or Member States when unanimity is required. Members pointed out that enhanced cooperation has predominantly been used in the area of justice and home affairs.

Main observations

Members expressed concern by the fact that even though enhanced cooperation offers a solution to a common problem, by taking advantage of the Union institutional structure and thereby reducing the administrative costs for the participating Member States, it has not completely eliminated the need to resort to forms of intergovernmental subgrouping solutions outside the Treaties, which have a negative impact on how consistently the EU legal framework is applied and therefore lead to a lack of appropriate democratic scrutiny.

The EU's single institutional framework should be preserved in order to achieve its common objectives and guarantee the principle of equality of all citizens. The Community or Union method should be upheld.

Members made a number of recommendations:

Decision-making process

The resolution pointed out that the political impetus for enhanced cooperation should come from the Member States, but discussions on its contents should be based on a Commission proposal. In addition, Article 225 TFEU gives Parliament the right of quasi-legislative initiative, which should be interpreted as the possibility for Parliament to initiate enhanced cooperation on the basis of a Commission proposal that did not manage to reach an agreement through the regular decision-making procedure within the mandate of two consecutive Council presidencies. Parliament strongly recommended that the special 'passerelle clause' to be activated to switch from unanimity to QMV, and from a special to the ordinary legislative procedure, immediately after an agreement on the start of enhanced cooperation is approved by the Council, in order to avoid new blockages if the number of participating Member States is significant. The Commission should play an active role in all stages of enhanced cooperation from the proposal through the deliberations to the implementation of enhanced cooperation. In addition, Parliament called on the Council to engage with Parliament in a possible future enhanced cooperation procedure prior to the request for Parliament's consent on the final text, so as to ensure maximum cooperation between the Union's co-legislators.

Budget

Members stated that operating expenditure linked to enhanced cooperation should be borne by the participating Member States, and if this cost is borne by the EU budget, the non-participating Member States should be reimbursed, unless the Council, after consulting Parliament, decides that such cooperation is to be funded by the EU budget, and therefore subject to the annual budgetary procedure.

If the activity regulated by enhanced cooperation generates revenue, this revenue should be assigned to cover the operating expenditure linked to the enhanced cooperation.

Jurisdiction

Parliament considered that enhanced cooperation should fall under the direct jurisdiction of the Court of Justice of the European Union (CJEU), without prejudice to the possibility of establishing an arbitration procedure or a dispute settlement court of first instance that could be required for the functioning of a particular case of enhanced cooperation, unless the Treaty provides otherwise.

Adjustments to the institutional structure

Parliament proposed the creation of a special enhanced cooperation unit in the Commission, under the leadership of the Commissioner responsible for inter-institutional relations, to coordinate and streamline the institutional setting up of enhanced cooperation initiatives.

Future evolution

Members considered it necessary to devise a procedure for the fast-track authorisation of enhanced cooperation in fields of high political salience to be accomplished within a shorter timeframe than the duration of two consecutive Council presidencies.

Parliament called on the Commission to propose a regulation in order to simplify and unify the relevant legal framework for enhanced cooperation (for example, the guiding principles on the applicable law for common institutions or a Member's withdrawal), thereby facilitating the conclusion of such cooperation.

Withdrawal or expulsion of Member States

Parliament stated that clear rules should be laid down in all cases of enhanced cooperation on the withdrawal of a Member State that no longer wishes to participate and on the expulsion of a Member State that no longer fulfils the conditions of the enhanced cooperation.