

Thursday 18 April 2019

P8\_TA(2019)0440

**Negotiations with Council and Commission on European Parliament's right of inquiry: legislative proposal****European Parliament resolution of 18 April 2019 on the negotiations with the Council and Commission on the legislative proposal for a regulation on the European Parliament's right of inquiry (2019/2536(RSP))**

(2021/C 158/04)

*The European Parliament,*

- having regard to the first paragraph of Article 14 of the Treaty on European Union (TEU),
- having regard to the third paragraph of Article 226 of the Treaty on the Functioning of the European Union (TFEU),
- 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 Commission <sup>(1)</sup>,
- having regard to the respective paragraphs in its recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (PANA resolution, paragraphs 190-200) <sup>(2)</sup> and its recommendation of 4 April 2017 to the Council and the Commission following the inquiry into emission measurements in the automotive sector (EMIS resolution, paragraphs 76-94) <sup>(3)</sup>,
- having regard to the decision of its Conference of Presidents of 18 September 2014, in accordance with Rule 229 of its Rules of Procedure, to continue with consideration during the new parliamentary term of the above-mentioned legislative proposal for a regulation on the European Parliament's right of inquiry,
- having regard to the three working documents <sup>(4)</sup> of the Committee on Constitutional Affairs on the above-mentioned legislative proposal,
- having regard to the concerns of the Council and the Commission regarding this legislative proposal, as expressed in the letter of 4 April 2014 to the Secretary-General of the European Parliament from the Secretaries-General of the Council and the Commission and in the letters to the Chair of the Committee on Constitutional Affairs of 28 April 2015 from the First Vice-President of the Commission, 3 September 2015 from the Luxembourg Council Presidency, 13 October 2016 from the Slovak Council Presidency and 25 October 2018 from the Austrian Council Presidency,
- having regard to the debate in plenary on 13 December 2017, and especially the replies by the Estonian Council Presidency and the Commission, following the questions for oral answer (Rule 128) tabled on 29 November 2017 by Danuta Maria Hübner on behalf of the Committee on Constitutional Affairs to the Council and to the Commission on the European Parliament's right of inquiry,
- having regard to the debate in plenary on 17 April 2019, following the questions for oral answer (Rule 128) tabled on 22 January 2019 to the Council and to the Commission by Danuta Maria Hübner on behalf of the Committee on Constitutional Affairs on the legislative proposal for a regulation on the European Parliament's right of inquiry <sup>(5)</sup>,
- having regard to the motion for a resolution of the Committee on Constitutional Affairs (B8-0238/2019),

---

<sup>(1)</sup> OJ C 443, 22.12.2017, p. 39.

<sup>(2)</sup> OJ C 369, 11.10.2018, p. 132.

<sup>(3)</sup> OJ C 298, 23.8.2018, p. 140.

<sup>(4)</sup> PE544.488v03-00, PE571.670v03-00 and PE630.750v01-00.

<sup>(5)</sup> O-000003/19 and O-000004/19.

Thursday 18 April 2019

- having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas already in the first working document adopted by the Committee on Constitutional Affairs (AFCO) on 20 January 2015, it has been indicated that the ‘concerns’ expressed by the Council and the Commission ‘should not in themselves constitute an insurmountable objection’, with AFCO recognising that ‘there are alternative solutions and more flexible wordings, which would enable the deadlock on the regulation to be resolved’, indicating and proposing to the Council Presidency and to the Commission the way forward, with ‘political negotiations first’ followed by technical meetings;
- B. whereas the Council replied to this offer showing willingness and commitment to engage with Parliament, but with the condition that Parliament should first address the problematic and fundamental concerns of a legal and institutional nature;
- C. whereas AFCO adopted a second working document enabling the rapporteur to take further steps with the Council and Commission to negotiate a way to address the above-mentioned concerns; whereas a new negotiating strategy was adopted accordingly, and a document in the form of a non-paper describing, with political arguments, possible solutions for the way forward was sent to the Council and Commission on 30 June 2016;
- D. whereas on 10 October 2016 the three institutions decided to proceed with an informal exchange of views between their respective legal services so as to further clarify all the legal and institutional issues; whereas this enabled Parliament to propose a new wording of the regulation while leaving the main political divergences open;
- E. whereas despite the legal work done, the jurisconsults of the legal services of the Commission and Council were not able to formally endorse the document which emerged from the remarkable work carried out by the legal services of the three institutions, and this led to an effective standstill on this important file; whereas, consequently, a debate was held in plenary under AFCO’s auspices on 13 December 2017 following two questions for an oral answer, after which AFCO, on 3 May 2018, forwarded a new wording of the proposal in the form of a non-paper, representing the formal follow-up of the agreement reached between the AFCO Chair and the rapporteur, Ramón Jáuregui Atondo, with the Slovak Council Presidency and the Commission on 10 October 2016, stating that ‘in order for official negotiations to be launched, a presentation of a new wording of the EP proposal is necessary’;
- F. whereas the Council replied on 25 October 2018 to the proposed new wording based on the legal work carried out by the legal services, the experience of the two committees of inquiry (EMIS and PANA) established during this eighth term, and the proposal adopted by Parliament in 2014; whereas in its reply the Council formalised a new list of concerns, also going beyond the opinion of its own legal service, putting in question the work accomplished so far and listing the main institutional problems for Parliament, which are difficult to overcome; considers that by acting in this way the Council is not leaving any margin of manoeuvre for negotiations, while the idea behind the non-paper was in fact that the new text should open up negotiations and political discussions;
- G. whereas it is an inherent characteristic of all legislative chambers and a fundamental condition of the separation of powers in a democracy worthy of the name that a parliament should be able to hold the executive to account by setting up committees of inquiry with real powers to call witnesses and obtain documents;
- H. whereas all institutions of the European Union have regularly committed themselves to sincere cooperation, which in the case of the regulation in question is hard to discern;
- 1. Expresses its deepest disagreement with the attitude of the Council (and the Commission), which is continuing to prevent, after more than four years of informal meetings and exchanges of letters and documents, a formal meeting to discuss at political level possible solutions to the problems identified, refusing to approve a political mandate to the Council Presidency that would open the door to meetings of a political nature aimed at resolving the most contentious issues and sounding out whether an agreement could be reached;

Thursday 18 April 2019

2. Asks its President to bring Parliament's concerns to the attention of the political leaders concerning the failure of the Council and Commission to comply with the principle of interinstitutional cooperation;
  3. Suggests that its Committee on Legal Affairs should examine the feasibility of preparing an action before the Court of Justice of the European Union in connection with the principle of mutual sincere cooperation between institutions (Article 13(2) of the TEU), and, in this connection, should also check and report on the violations by the Council of the actual legal framework of the committees of inquiry created during this term (PANA and EMIS);
  4. Underlines that as it is currently worded, the third paragraph of Article 226 of the TFEU, which stipulates a 'special legislative procedure' and requires the consent of the Council and the Commission for the adoption of a regulation on Parliament's right of inquiry, does not oblige the Council and the Commission to negotiate, since they are obliged only to give or withhold their consent to Parliament's proposal, and not to negotiate it with a view to reaching a common accord;
  5. Recommends that the legislative process arising from the right of legislative initiative conferred on Parliament by the Treaties must include, under the Interinstitutional Agreement on Better Law Making (IIA), a request for the establishment of a legislative calendar for the initiatives concerned, similarly as with the ordinary legislative procedure; underlines, moreover, that such a special legislative procedure must respect the provisions of the IIA concerning the institutional obligation to negotiate of all three institutions;
  6. Invites the Council and the Commission, if they are unable to give their consent to the proposal, to resume negotiations with the newly elected Parliament, acknowledging the progress made with the new wording of the proposal presented in the non-paper and based on the work carried out by the legal services of the three institutions; believes this is a more orderly and systematic text than that adopted in 2014, containing the same powers of investigation, but updated in line with the experiences of recent years and the current institutional reality;
  7. Calls on the political parties to ensure that their election programmes express their commitment to Parliament's proposal for a new and updated regulation on its right of inquiry, and invites the different *Spitzenkandidaten* to offer their public and political support on this matter;
  8. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the Court of Justice of the European Union and the national parliaments.
-