**Follow-up to the European Parliament** **non-legislative resolution on the implementation of the Treaty provisions on special legislative procedures**

1. **Rapporteur:** Victor NEGRESCU (S&D **/** RO)
2. **Reference number:** 2023/2083 (INI) / A9-0384/2023 / P9\_TA(2023)0470
3. **Date of adoption of the resolution:** 13 December 2023
4. **Competent Parliamentary Committee:** Committee on Constitutional Affairs (AFCO)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

The resolution addresses certain concerns of the Parliament with regard to the practical implementation of Treaty provisions on special legislative procedures. The Parliament argues in particular that the Council on a number of legislative files acted in such a way as to deprive Parliament of its full participatory and decision-making rights and that it does not respect the principle of mutual sincere cooperation, for instance by not adopting its position in a reasonable timeframe. It therefore calls for the Parliament’s role to be strengthened to allow it to engage in these procedures on an equal footing in negotiations with the Council. The resolution lists a number of files under various types of special legislative procedures.

For **acts adopted by the Council or the European Council at the initiative of Parliament and after receiving its consent**, the resolution refers to two files, respectively the Parliament’s right of inquiry and the European electoral law, where the Council, in the Parliament’s view, failed to comply with the obligation of mutual sincere cooperation. As regards the right of inquiry, the Parliament argues that the Council’s unwillingness to react to the Parliament’s proposal is a clear breach of Article 265 of the Treaty on the Functioning of the European Union (TFEU) (failure to act). The resolution calls on the Council and the Commission to comply with the principle of mutual sincere cooperation and to engage with Parliament to overcome the current institutional blockages before the end of the current legislature (paragraph 9). It also reminds the Commission not to neglect its roles as ‘guardian of the Treaties’ and ‘honest broker’ in these procedures (paragraph 15).

As regards **acts adopted by the Council after Parliament’s consent,** the resolution calls for a high degree of interinstitutional dialogue in cases where the special legislative procedure involves a right of initiative for the Parliament. In that regard, the Parliament deplores that the European Council’s decision on the composition of the Parliament for the 2024-2029 legislature substantially changed the Parliament’s proposal without informing the Parliament (paragraph 18).

For **acts adopted after consultation of the Parliament**, the resolution calls on the three institutions to explore possible avenues to ensure that the Parliament’s opinion is duly taken into account and reflected in the legislation (paragraph 23). The resolution criticises the Council for having blocked, by an ‘*unjustified veto’* Romania’s and Bulgaria’s accession to the Schengen area, despite requests from both the Parliament and the Commission. The resolution also criticises the Commission for its reply to the Parliament’s position concerning the proposal on electoral rights of mobile citizens in European elections, which in the Parliament’s view was ‘*extremely negative’* (paragraph 27).

Against that basis, the resolution calls 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. The resolution underlines 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 (paragraph 35).

**6. Response to requests and overview of actions taken, or intended to be taken, by the Commission:**

The Commission welcomes the Parliament’s resolution on the implementation of the Treaty provisions on special legislative procedures.

The Commission agrees with the overall aim of the resolution to ensure the smooth cooperation between the institutions on files under the special legislative procedures and fully shares the Parliament’s view that all institutions must comply with their obligations under the Treaties, including the principle of sincere mutual cooperation.

(Paragraphs 18 and 27) The Commission notes that some of the files to which the resolution refers have come to a partially successful or successful conclusion, for instance on the question of Romania’s and Bulgaria’s accession to the Schengen area and the composition of the European Parliament for the 2024 elections. As regards the latter file, the Commission also recalls that the Parliament’s Committee of Constitutional Affairs, following the suggestion made by the European Council in its Decision from 22 September 2023, is currently preparing a proposal for a permanent system to allocate the seats of the European Parliament in an objective, fair, durable and transparent way, also with the objective of making future agreements on the composition of the Parliament less difficult.

(Paragraph 9) The Commission has always recognised the importance of the Parliament’s right of inquiry without prejudice to the powers conferred by the Treaties to the other institutions. As stated on several occasion and in the spirit of mutual sincere cooperation, the Commission stands ready to resume interinstitutional discussions to unlock this file. The Commission agrees there is a need to amend the current rules so that the Parliament would have an adequate instrument of inquiry, which fully respects institutional prerogatives and the relevant legal frameworks of Member States. The Commission recalls that, according to Article 226 TFEU, the detailed provisions governing the exercise of the right of inquiry are to be determined by the European Parliament, acting on its own initiative, after obtaining the consent of the Council and the Commission. This necessitates then that the concerns raised by the Council and the Commission are addressed.

(Paragraph 15) The Commission recognises the importance of the Parliament’s proposal for a reform of the EU electoral law and supports its overall objectives. The Commission constantly works to make elections to the European Parliament more European, inclusive and resilient, in full compliance with the highest democratic standards. While the Commission plays no formal role in the special legislative procedure set out in Article 223 TFEU, it actively follows discussions in the Council. It has made available its technical and institutional expertise on electoral related matters, which builds among others on the work conducted in the context of the European Cooperation Network on Elections, to help find workable approaches to advance discussions on this proposal.

(Paragraph 27) With regard to the proposal to recast the Directive on electoral rights of mobile Union citizens in elections to the European Parliament, the Commission recalls that this proposal is currently in the hands of the Council, which has recently started discussions at technical level. The Commission notes the Parliament’s concerns about its reply to the Parliament’s legislative resolution of 14 February 2023. On this, the Commission stresses that it supports discussions in the Council to promote broad and inclusive participation of mobile Union citizens in elections and to ensure they can exercise their electoral rights effectively, under the same conditions as nationals. The Commission also supports efforts to ensure that mobile Union citizens can exercise their electoral rights easily and effectively through a wide range of policy tools, which are complementary to its proposal, and which are consistent with the objectives put forward in the Parliament’s resolution. For instance, it supports the exchange of good practices on how to ensure disability-inclusive elections and harness the benefits of technology to support participation in elections, including in the framework of the European Cooperation Network on elections. Also, in December 2023, the Commission issued a recommendation on inclusive and resilient elections, which calls for easy voter registration procedures, the provision of information in an official language understandable to mobile Union citizens, the use of complementary voting methods, collection of data on participation and accessibility of elections for persons with disabilities. Furthermore, in December 2023, the Commission published a guide of good electoral practices in Member States addressing participation of citizens with disabilities in electoral processes and a compendium of e-voting and other ICT (information and communications technology) practices.

(Paragraph 35) The Commission takes note of the Parliament’s recommendation to launch a review of the Interinstitutional Agreement on Better Law-Making with the objective of defining the special legislative procedures, in particular as regards procedures where the Parliament has the right of initiative. The Commission is however not convinced that a revision of the Interinstitutional Agreement as proposed by the Parliament would be an appropriate or helpful tool to address the Parliament’s concerns pertaining to the absence of political agreement between institutions on specific legislative files. The Commission notes that the reasons for the difficulties encountered in the files referred to in the resolution vary significantly between the files and that political work and practical cooperation among institutions are of key importance for finding solutions to take these files forward. It will continue supporting both institutions in finding solutions to unblock files under the special legislative procedures. The Commission also stresses that any review of the Interinstitutional Agreement would have to respect the provisions in the Treaties and the prerogatives of each institution.