

Extract from:

Paolo Ponzano, Costanza Hermanin, Daniela Corona,
"The Power of Initiative of the European Commission: A Progressive Erosion?",
Notre Europe, Study No. 89, February 2012.

Preface



This study, produced by Daniela Corona, Costanza Hermanin and Paolo Ponzano, offers a useful contribution to the current debate on the merits and the alleged limitations of the “Community Method”, of which the Commission’s monopoly over legislative initiative is such a crucial element.

Based on data relating to what are termed “innovative” legislative proposals, it allows the reader to draw conclusions which I feel are equally applicable to the exercise of the power of initiative as a whole, and which confirm the analysis that I have drawn from my experience as a Member of the Commission.

As this study argues, we need to distinguish three different kinds of issues if we are to effectively measure the way in which the Commission’s exercise of the power of initiative has partly changed its nature: first, we have the “agenda setting”, then the definition of the “terms of debate”, and lastly the negotiations that lead to the finalisation of the texts.

Regarding the “agenda setting” aspect, in other words the definition of the issues in connection with which any given legislative initiative is to be launched, the

authors rightly highlight the fact that the Commission is now forced to pay increasing heed to the guidelines and suggestions put forward by the European Council and Parliament.

This initial work based on listening and analysing is perfectly logical and very welcome; indeed, it seems to me to be the natural political offset for the monopoly on legislative initiative that the Commission has held since the construction of Europe began. Moreover, this listening task involves not only the institutions but also the economic and social players, the NGOs, and soon, in a more direct way, also any citizens who decide to gather together in support of a proposal in the context of the “citizen’s initiative” right enshrined in the Lisbon Treaty. Indeed, it is precisely because the Commission has proven its ability to listen that it has *de facto* exercised this monopoly hitherto in the fields of justice and home affairs, even though the treaties assign power of initiative to a group of Member States.

Regarding the definition of the “terms of debate”, in other words the content of the legislative texts due to be submitted for negotiation, it is important to specify that in this field the Commission has managed to hang on to a fairly broad margin for manoeuvre.

The study is quite right to highlight the fact that the Commission makes every effort to heed its co-legislators’ positions when putting together its own proposals, but that does not necessarily mean that that influence undermines its ability to afford priority to the issues and formulations that it considers best suited to the needs of the EU as a whole. The scope of the initiatives taken by the Commission is a key element in the dynamic of negotiations between the Parliament and Council. The overcautiousness of such initiatives can not guarantee that the general interest of the Union is best safeguarded and that expectations of European citizens are met. It is all a matter of political will and skill – and in that connection, it is hardly surprising that the study finds differences between the four colleges it examines, or that the panel chaired by Jacques Delors stands out.

And finally, regarding the negotiations leading to the amendment and finalisation of the legislative texts, the authors are absolutely right to suggest that the

extension of the codecision procedure and the increasing power of the European Parliament have restricted the Commission's power to influence.

This, because the adoption of the "trialogue" system has led to the European Council and Parliament negotiating in a more direct manner in their capacity as the holders of decision-making powers in the legislative sphere. The Commission can often find itself playing a less central role in the context of this triologue, including in the exercise of its ability to withdraw proposals whose content has become substantively different from the content of the original draft that it submitted.

All in all, this analysis tends to demonstrate that, while the Commission's power of initiative has undergone change and renewal, the Commission still plays a crucial and irreplaceable role. That is an observation that one could usefully extend to the Community Method as a whole, the originality and effectiveness of which also need to be safeguarded while adapting to the new political and institutional context in which the EU exists and acts today.

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