

Committee on Economic and Monetary Affairs  
The Chairwoman

Ms Erminia Mazzoni  
Committee on Petitions

202694 07.07.2010

Subject: Petition No. 589/2009 by Jean-Philippe Ducart (Belgian), on behalf of Test Achats asbl, with 1 signature, on the violation of the right to the protection of private property of the shareholders of FORTIS Bank

Dear Chair,

Thank you very much for transmitting petition No. 589/2009 to the Committee on Economic and Monetary Affairs for comments.

The analysis of a possible breach to the right of private ownership in the case of the purchase of the assets of FORTIS Holding and subsequently the sale of its shares to BNP Paribas goes beyond Parliament's competence. It is indeed for the national courts to decide on such issues. In any case, ECON is not competent for matters of constitutional, civil or commercial law.

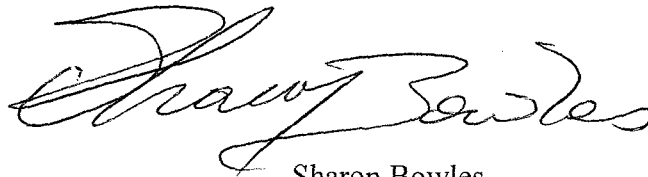
The Parliament can scrutinise the Commission's behaviour, in particular the decisions made in this case on the purchase of Fortis assets on 3 December 2008 and 12 May 2009. However, this parliamentary scrutiny cannot replace the legal review of the Commission's decisions by the European Court of Justice.

As regards the State aid question, the PETI Committee has already requested information from the Commission on the decisions made for this case. The Commission has concluded that the purchase and sale at stake indeed constitute State aid within the meaning of the Treaty on the Functioning of the European Union. This conclusion derives from the application of the "private investor" test, whereby the State has paid a higher purchase price than a private investor would have paid in similar circumstances. ECON has no elements to disagree with the Commission's evaluation and the Commission seems to have acted in compliance with the Treaty. Only the Court of Justice could have investigated the substance of this file and the procedure further.

ECON is well aware that this case is still another unfortunate example of the shortcomings of financial supervision in cross-border situations. These shortcomings are part of the more general context that led to the current financial and economic crisis. Parliament has warned the EU institutions and Member States about these shortcomings since the late 1990s. ECON is doing its utmost to allow as soon as possible Parliament to adopt, together with the Council, financial supervision legislation which in the future will protect EU citizens from the need for emergency bail-outs of banks.

You may inform the petitioner along the above lines and refer him to the Parliament's (and ECON's) activities in this area (Financial Supervision Package).

Yours sincerely,

A handwritten signature in black ink, appearing to read "Sharon Bowles". The signature is fluid and cursive, with a large initial "S" and "B".

Sharon Bowles