

EUROPEAN PARLIAMENT

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2009

Committee on Economic and Monetary Affairs

2008/2103(INI)

23.7.2008

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Constitutional Affairs

on a strategy for the future settlement of the institutional aspects of Regulatory
Agencies
(2008/2103(INI))

Draftsman: Eoin Ryan

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SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Regrets that the 2005 draft inter-institutional agreement on the operating framework for European regulatory agencies stalled at Council level; welcomes the Commission's initiative to re-launch the debate on the role of agencies within the governance structure of the European Union;
2. Highlights the important role that regulatory agencies can play as distinct and auxiliary bodies of the Community institutions and the Member States with legal personality for the continuous performance of specific tasks in areas of EU competence and intra-EU cooperation;
3. Emphasises that regulatory agencies must be established in line with uniform criteria and that their design and functioning must comply with the common principles of institutional balance, good governance and good administration;
4. Points out that the establishment of a regulatory agency must be effected by a legislative act and justified on grounds of necessity, efficacy and proportionality; points out that in regard to areas of shared competence between the European Union and the Member States, it must also be justified in accordance with the principle of subsidiarity;
5. Believes that for regulatory agencies to have a legitimate role in the European Union they must adhere to a common framework incorporating a clear mandate and an efficient administrative and executive structure; considers that the force of the acts of regulatory agencies derives from the underlying legislative act that created them and that those acts will have no legislative character unless they are subsequently adopted by the EU institutions in accordance with the appropriate legislative procedure;
6. Echoes the concern of the Commission that, in the absence of a common framework and a clearly defined mandate, regulatory agencies may stray into areas beyond their remit;
7. Highlights that the principles of good governance require that the following be fully guaranteed: independence, democratic control, transparency and the participation of stakeholders in the functioning of the regulatory agency;
8. Recalls that the independence of the functioning of regulatory agencies must be based on the following conditions: the suitability and the competence of its members, the objectivity and impartiality of their performance, the prohibition of any external instruction or recommendation, the existence of strict rules to avoid bias and conflicts of interest, the need for a very high level of loyalty and transparency, the periodical rotation of, and the possibility to remove, its members, the establishment of rules and codes together with the stakeholders, the prosecution of illegal behaviour or any other interferences, and the establishment of other appropriate mechanisms;
9. Declares that in order to ensure democratic control of the regulatory agencies effective

legal, economic, political and citizens' control are required;

10. Reiterates that all agencies must be democratically accountable to the EU institutions, must be established in accordance with the Meroni judgement¹ and must at all times operate with respect for the principle of proportionality and, when their mission deals with issues in an area of shared competence, with respect for the principle of subsidiarity;
11. Considers it to be of the utmost importance to strengthen the role of Parliament in the functioning of agencies, guaranteeing its participation in the processes of appointment and removal of the members responsible as well as the exercise of regular and systematic control over the fulfilment of their remit;
12. Questions the need to establish regulatory agencies when they do not add value in areas already covered by national or other independent agencies; believes, when this is the case, that resources should, rather, be spent on strengthening national bodies and that consultation and exchange of best practice should take place in the framework of network structures or of Community forums; underlines the importance of impact assessments prior to the establishment of regulatory agencies in order to avoid overlapping functions and areas of responsibility;
13. Calls for the adoption of clear rules for the evaluation of the work of regulatory agencies; believes that cost-benefit analyses are a helpful tool for assessing the work and the performance of the agencies;
14. Is of the view that the transparency of the regulatory agencies must be ensured, in particular as regards their functioning, the disclosure and accessibility of information, and the programming and accountability of their actions;
15. Considers that participation in the activity of the regulatory agencies will have to be ensured by formally structuring the processes of consultation and dialogue with the stakeholders;
16. Advocates that the principles of good administration must be ensured by a common approach regarding personnel selection processes, budgeting and resources administration, efficient management and performance evaluation;
17. Supports the Commission's decision not to propose any new regulatory agencies until its evaluation is complete at the end of 2009; supports, however, the decision to proceed with the proposal to establish new regulatory agencies in the fields of energy and telecoms; points out that those two new agencies and the existing agencies will have to comply with the future general framework that establishes the role, structure, mandate, accountability, legitimacy and transparency of regulatory agencies; calls for an evaluation of existing agencies once an agreement on a common framework has been reached; encourages amending the basic acts governing existing regulatory agencies in order to make them consistent with such an agreed common framework;
18. Calls for cooperation among regulatory agencies within the European Union and for consideration, in the annual horizontal report on the agencies, of the possibility of

¹ Case 9/56 Meroni v. High Authority [1957/58] ECR 133.

consolidating those agencies with similar responsibilities so that they can function jointly, as well as abolishing those that have lost their *raison d'être*;

19. Reiterates the call of both Parliament and the Commission in the draft inter-institutional agreement of 2005 to incorporate a decision on an agency's seat into the basic act.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.7.2008
Result of final vote	+: 33 -: 0 0: 0
Members present for the final vote	Mariela Velichkova Baeva, Zsolt László Becsey, Pervenche Berès, Slavi Binev, Sebastian Valentin Bodu, Sharon Bowles, David Casa, Manuel António dos Santos, Elisa Ferreira, Jean-Paul Gauzès, Donata Gottardi, Benoît Hamon, Gunnar Hökmark, Sophia in 't Veld, Othmar Karas, Wolf Klinz, Andrea Losco, Astrid Lulling, Gay Mitchell, Joseph Muscat, John Purvis, Heide Rühle, Eoin Ryan, Antolín Sánchez Presedo, Salvador Domingo Sanz Palacio, Ivo Strejček, Ieke van den Burg, Sahra Wagenknecht
Substitute(s) present for the final vote	Dragoş Florin David, Thomas Mann, Gianni Pittella, Bilyana Ilieva Raeva, Theodor Dumitru Stolojan