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*Plenary sitting*

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**A8-0002/2017**

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# REPORT

on control of the Register and composition of the Commission's expert groups  
(2015/2319(INI))

Committee on Budgetary Control

Rapporteur: Dennis de Jong

Rapporteur for the opinion(\*):  
Sylvia-Yvonne Kaufmann, Committee on Legal Affairs

(\*) Associated committee – Rule 54 of the Rules of Procedure

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(\*) Associated committee – Rule 54 of the Rules of Procedure

## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on control of the Register and composition of the Commission's expert groups (2015/2319(INI))

*The European Parliament,*

- having regard to the Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups (C(2016)3301),
  - having regard to the Commission Communication to the Commission – Framework for Commission expert groups: horizontal rules and public register (C(2016)3300),
  - having regard to the Framework Agreement on relations between the European Parliament and the European Commission<sup>1</sup>,
  - having regard to its resolution of 28 April 2016 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2014, Section III – Commission and executive agencies<sup>2</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinions of the Committee on Legal Affairs and the Committee on Budgets (A8-0002/2017),
- A. whereas it has expressed its concerns with regard to the functioning of the previous framework for Commission expert groups (EGs) of November 2010<sup>3</sup>, which had been set up with the aim of introducing significant operational innovations to strengthen the transparency and coordination of interinstitutional work;
- B. whereas, in particular, its Committee on Budgets, in light of the lack of transparency and the imbalanced composition of a certain number of EGs, and given the need to make sure that the composition of EGs strikes the right balance in terms of expertise and of views represented, adopted budgetary reserves in 2011 and 2014, and has formulated demands which have not yet been accepted for their reform;
- C. whereas a recent study commissioned by it has identified a widespread lack of transparency in, and an imbalance in the composition of, a certain number of EGs<sup>4</sup>;
- D. whereas balanced composition and transparency are critical preconditions for the expertise to adequately reflect the needs for regulatory action and for fostering the legitimacy of this expertise and regulatory action in the eyes of European citizens;
- E. whereas the European Ombudsman has in her strategic inquiry<sup>5</sup> put forward a recommendation concerning the composition of Commission EGs, in particular

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<sup>1</sup> OJ L 304, 20.11.2010, p. 47.

<sup>2</sup> Texts adopted, P8\_TA(2016)0147.

<sup>3</sup> C(2010)7649 of 10 November 2010.

<sup>4</sup> Policy Department D Budgetary Affairs, Composition of the Commission's expert groups and the status of the register of expert groups, 2015.

<sup>5</sup> OI/6/2014/NF.

emphasising the need for greater transparency within the EGs;

- F. whereas before adopting the Decision, the Commission engaged with representatives of Parliament and with the European Ombudsman;
  - G. whereas the Commission has presented to Parliament a working document of the Commission's services, responding to the recommendations contained in a working document of the Rapporteur for the Committee on Budgetary Control;
  - H. whereas unfortunately, this notwithstanding, neither the working document of the Commission's services, nor the Commission Decision, provides solutions to all concerns raised by Parliament;
1. Welcomes the Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission EGs, but regrets the fact that, despite many non-governmental organisations having expressed their interest, the Commission did not organise a full public consultation; reiterates the importance of reviving forms of involvement of representatives of civil society and the social partners in crucial areas such as the transparency and the functioning of the European institutions;
  2. Points out that, through the adoption of the new horizontal rules, many concerns previously expressed by Parliament have seemingly been met, in particular those concerning the need for public calls for applications for the selection of the members of EGs and concerning the revision of the Register of Commission EGs and the creation of synergy between this Register, the Transparency Register of the Commission and Parliament, and those rules relating to the need to avoid conflicts of interest, in particular as regards experts who are appointed in a personal capacity;
  3. Notes that transparency and coordination of interinstitutional activities are of paramount importance, helping to strike a suitable balance from the point of view of the expertise and opinions represented in the composition of the EGs, in order to improve their action; welcomes, therefore, the fact that the selection process is now taking place publicly; stresses, in this connection, that it needs to be clearly visible what practical experience and qualifications the experts possess; takes the view that the entire selection process should guarantee a high level of transparency and should be governed by clearer, more concise criteria, with particular emphasis on candidates' practical experience, alongside their academic qualifications, and on possible conflicts of interest the experts might have;
  4. Welcomes the fact that a connection has already been established between the Register of Commission EGs and the Transparency Register, thus ensuring improved transparency;
  5. Finds it regrettable that the attempt to conduct a public consultation on the establishment of the new rules was unsuccessful; calls on the Commission to act in a transparent manner and to be accountable to the citizens of the EU;
  6. Recalls that a lack of transparency has a negative effect on the trust that EU citizens have in the EU institutions; believes that the effective reform of the Commission's EGs system, based on clear principles of transparency and balanced composition, will

improve the availability and reliability of data, which will in turn help increase people's trust in the EU;

7. Emphasises that the new rules should apply strictly and equally to all EGs – irrespective of their title (thus including special, high-level or other ‘extraordinary’ groups, and formal or informal groups) – that are not exclusively composed of representatives of Member States or governed by Commission Decision of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level; reiterates that the new rules must ensure balanced representation through participation of representatives of all stakeholders.
8. Takes the view that the Commission should make progress towards a more balanced composition of the EGs; deplores the fact, however, that as yet no express distinction is drawn between those representing economic and non-economic interests so as to guarantee a maximum of transparency and balance; stresses the need, in this connection, for the Commission to make it clear, in the public call for application, how it defines a balanced composition and which interests it seeks to be represented when the EGs are established; considers it important, therefore, to involve Parliament and the Economic and Social Committee with a view to producing a more balanced definition of that distinction;
9. Calls on the Commission, when creating new EGs or changing the composition of existing ones, to state clearly in the public call for applications how it defines a balanced composition, which interests it seeks to be represented, and why, and also to justify any possible deviation from the balanced composition, as defined beforehand, when the EGs are established;
10. Points out, in this context, and with regard to paragraphs 34-45 of the Ombudsman’s aforementioned opinion, that, although the Commission has not yet formally defined its concept of ‘balance’, the latter is not to be understood as the result of an arithmetic exercise, but rather as the result of efforts to ensure that the members of an EG, together, possess the necessary technical expertise and breadth of perspectives to deliver on the mandate of the EG in question; considers that the concept of balance should, therefore, be understood as tied to the specific mandate of each individual EG; considers that the criteria to assess whether an EG is balanced should include the tasks of the group, the technical expertise required, the stakeholders who would be most likely affected by the matter, the organisation of groups of stakeholders, and the appropriate ratio of economic and non-economic interests;
11. Calls on the Commission forthwith to investigate whether a new complaints mechanism is required, if the definition of balanced composition is contested by interested stakeholders or whether current arrangements are adequate, calls for Parliament to be associated in this control mechanism;
12. Recalls that, in the past, it was not always possible for the Commission to find sufficient experts representing SMEs, consumers, trade unions or other organisations of general public interest, and that this was often caused by the costs involved, either in taking up leave or, for example in the case of SMEs, in finding replacement for the time spent in the EGs, hereafter referred to as ‘alternative costs’;

13. Requests, therefore, the Commission to explore ways to facilitate and encourage the participation of underrepresented organisations or social groups in EGs, by assessing, inter alia, its provisions for reimbursement of expenses in an efficient and equitable manner, including possible ways to cover outlays for any such ‘alternative costs’, while duly respecting the principle of proportionality;
14. Asks the Commission to assess the development of an allowance system that supports underrepresented groups in acquiring the expertise necessary for a fully effective participation in the EG;
15. Calls on the Commission to make it possible for European non-governmental organisations to be represented in the EGs by representatives of their national member organisations, when provided with a clear mandate from the European organisations;
16. Calls on the Commission to make sure that – even if, despite specific arrangements, it is still not possible to find sufficient experts representing all relevant interests – the EG concerned will take all appropriate measures, for example by weighted voting procedures, to make sure that the final reports of these EGs will effectively be representing all relevant interests in a balanced manner;
17. Recalls that both Parliament and the European Ombudsman have recommended to the Commission to make the agendas, background documents, minutes of meetings and deliberations of EGs public, unless a qualified majority of their members decide that a specific meeting or part of a meeting would need to be secret, and regrets that the Commission has persisted in a system in which the meetings remain secret unless a simple majority of the members of EGs decides that the deliberations should be made public, considers it essential to implement the greatest possible transparency, and calls on the Commission to provide for the meetings and minutes to be made public;
18. Stresses that users need to be given access to a range of documents (agendas, reference documents, various reports), with a view to ensuring efficient monitoring by interested stakeholders; takes the view, furthermore, that the website of the Register of EGs – whether as such or through hyperlinks to other relevant websites – should be one of the instruments or mechanisms used to obtain constantly updated information on policy developments, thereby guaranteeing a high level of transparency;
19. Invites the Commission forthwith to develop specific guidelines – in consultation with stakeholders, including Parliament – explaining how it interprets the provision that the minutes of the EGs should be meaningful and complete, especially when the meetings are not public, and urges the Commission to provide, in this regard, the maximum transparency possible, including publication of the agenda, background documents, voting records and detailed minutes, including dissenting opinions in line with the recommendation of the European Ombudsman;
20. Recalls that, in addition to experts appointed in their personal capacity, members from universities, research institutes, law firms, European and other think tanks and consultancies may also have conflicts of interest, and requests the Commission to clarify how it avoids conflicts of interest for these specific categories of experts;
21. Calls on the Commission to ensure – building on existing positive examples – a

systematic implementation of improved horizontal rules by means of a central oversight of the implementation of these horizontal rules, and not to delegate this to the individual Directorates-General;

22. Calls on the Commission to devote, in particular, sufficient resources to the activities relating to the Register, by developing innovative and particularly effective methods so that it will be kept up to date without containing any factual errors and/or omissions, and will allow data export in machine-readable format;
23. Notes that the Commission has stated that by the end of 2016, the new framework for Commission EGs will have to be implemented by all Directorates-General, and requests the Commission to submit to Parliament a report on the implementation and evaluation at the latest one year after the adoption of the Decision, i.e. before 1 June 2017; calls on the Commission to ensure that, as part of the structured dialogue with Parliament, a first oral presentation of the report can already be made within the next six months;
24. Highlights, furthermore, that the Commission, in preparing and drafting delegated and implementing acts and in drawing up strategic guidelines, must ensure that all documents, including draft acts, must be communicated to Parliament and the Council at the same time as to the Member States' experts, as agreed in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
25. Instructs its President to forward this resolution to the Council and the Commission.

## EXPLANATORY STATEMENT

In the context of the discharge procedures relating to the European Commission, the Committee on Budgetary Control (CONT) of the Parliament has regularly considered the question of the composition and of the functioning of the Commission's expert groups. In light of the lack of transparency and the imbalanced composition of a number of expert groups, the Committee on Budgets (BUDG) adopted budgetary reserves in 2011 and 2014 and formulated demands for their reform.

After the adoption of a budgetary reserve in 2011, the European Commission expressed its willingness to engage in an informal dialogue with a group of members of the Parliament in order to correct imbalances in the composition of existing expert groups and to develop better rules for the creation and functioning of expert groups. The informal dialogue made it possible for Parliament to lift its budgetary reserve in 2011, even though there remained doubts concerning both the contents of the existing horizontal rules as well as their implementation by a number of Directorates-General of the Commission.

In 2015, CONT/BUDG commissioned a study on the composition of the Commission's expert groups and the status of the register of expert groups, which identified a widespread lack of transparency and an imbalance in composition in a certain number of expert groups.

In light of the findings of the study and the need for a proper follow-up, on 26 November 2015, the Conference of Committee Chairs approved the CONT-proposal for the elaboration of an own-initiative report on this subject. The report would contain concrete recommendations for the Commission to improve the balanced composition and transparency of its expert groups. The report could thus become the basis for the resumed informal dialogue with the Commission. The report would build on the investigations and the recommendations of the European Ombudsman in this respect, which resulted in her formal Recommendation of 26 January 2016.

During the presentation of the CONT/BUDG study, in September 2015, the services of the European Commission made it known that work had greatly advanced on a revised framework for its expert groups, consisting of (revised) horizontal rules and an improved public register. Despite various calls from the Parliament on the Commission to wait with the formal adoption of its new framework until the Parliament had been able to express its views in the report and the resolution that would result from the report, the Commission did not seem prepared to do so.

On 1 March 2016, the Rapporteur therefore published a working document for CONT, outlining his main concerns with the existing horizontal rules and register. The working document constituted an attempt of the Rapporteur for CONT to still influence the Commission's new rules. The Commission services, in their turn, provided the Parliament with a working document in which they reacted to the various recommendations of the Rapporteur. The CONT committee welcomed the progress made by the Commission, but also stated that not all its concerns had yet been met, in particular, in regard of the implementation of the new framework.

After this exchange of documents, the First Vice-President of the Commission engaged in talks with the European Ombudsman, NGO's and the rapporteurs of the European Parliament (i.e. the CONT- and JURI-rapporteurs for the CONT/JURI-report and the BUDG-rapporteur



for the BUDG-opinion). During these exchanges, the remaining concerns of the Ombudsman, NGO's and the rapporteurs were discussed. These related to, inter alia, the public nature of the deliberations in expert groups, their minutes, as well as to the assurance of a balanced composition in specific cases, for example, if it proves difficult to find sufficient experts for all interests to be represented. In addition, the discussions concentrated on the enforcement of the revised rules and the reimbursement of costs of interest representatives, other than those relating to travel and accommodation.

Although the exchanges with the FVP were useful and provided practical solutions for most of the remaining points, the framework as adopted by the Commission did not reflect any of these solutions. Against that background, the Rapporteurs think that the adoption of an own-initiative report is still useful, partly because the Commission can still include the recommendations of the report into implementation guidelines for the Commission services, and partly because it makes it possible for Parliament to request reporting on the implementation of the Commission decision.

## **OPINION OF THE COMMITTEE ON LEGAL AFFAIRS(\*)**

for the Committee on Budgetary Control

on control of the Register and composition of the Commission's expert groups  
(2015/2319(INI))

Rapporteur (\*): Sylvia-Yvonne Kaufmann

(\*) Associated committee – Rule 54 of the Rules of Procedure

### **SUGGESTIONS**

The Committee on Legal Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Notes that transparency and coordination of interinstitutional activities are of paramount importance, helping to strike a suitable balance from the point of view of the expertise and opinions represented in the composition of the expert groups, in order to improve their action; therefore welcomes the fact that the selection process is now taking place publicly; stresses in this connection that it needs to be clearly visible what practical experience and qualifications the experts possess; takes the view that the entire selection process should guarantee a high level of transparency and should be governed by clearer, more concise criteria, with particular emphasis on candidates' practical experience alongside their academic qualifications and possible conflicts of interest the experts might have;
2. Welcomes the fact that a connection has already been established between the Register of Commission expert groups and the Transparency Register, thus ensuring improved transparency;
3. Finds it regrettable that the attempt to conduct a public consultation on the establishment of the new rules was unsuccessful; calls on the Commission to act in a transparent manner and to be accountable to the citizens of the EU;
4. Takes the view that the Commission should make progress towards a more balanced composition of the expert groups; deplores the fact, however, that as yet no express distinction is drawn between those representing economic and non-economic interests so as to guarantee a maximum of transparency and balance; stresses the need, in this connection, for the Commission to make it clear in the public call for application how it defines a balanced composition and which interests it seeks to be represented when the expert groups are established; considers it important therefore to involve Parliament and the Economic and Social Committee in order to produce a more balanced definition of

that distinction;

5. Deplores the fact that for financial and organisational reasons it is at times not possible for under-represented groups, which are often representatives of civil society and of small and medium-sized undertakings or other organisations of general public interest, to participate; therefore calls on the Commission, in the interest of ensuring a balanced composition of expert groups, to consider possibilities for financial support to make it possible for all categories of experts to participate;
6. In order to produce greater transparency, calls on the Commission to ensure that all minutes of meetings are published; stresses in this connection that the content and the positions expressed by the experts at these meetings must be clearly shown and expressed in a way accessible for European citizens; also calls for the possibility of publishing minority decisions; reiterates the importance of making public the deliberations of Commission expert groups, bearing in mind that experts sitting in these Commission groups are performing a public service and that the debates that lead to the adoption of their decisions should be made public as a rule and not as an exception;
7. Stresses that users need to be given access to a range of documents (agendas, reference documents, various reports), with a view to efficient monitoring by interested stakeholders; takes the view, further, that the website of the Register of expert groups – whether as such or through hyperlinks to other relevant websites – should be one of the instruments or mechanisms used to obtain constantly updated information on policy developments, thereby guaranteeing a high level of transparency;
8. Emphasises that the measures provided for must be taken immediately when conflicts of interest become apparent, particularly among individuals appointed in a private capacity, acting independently and expressing their personal viewpoint in the general interest; points out that closer consideration should be given to these measures because their application will constitute the guarantee of experts' independence;
9. Highlights furthermore that the Commission, in preparing and drafting delegated and implementing acts and in drawing up strategic guidelines, must ensure that all documents, including draft acts, must be communicated to the European Parliament and the Council at the same time as to the Member States' experts, as agreed in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	29.11.2016
Result of final vote	<div><div>+:21</div><div>–:0</div><div>0:1</div></div>
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Therese Comodini Cachia, Mady Delvaux, Rosa Estaràs Ferragut, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Dietmar Köster, António Marinho e Pinto, Emil Radev, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Tadeusz Zwiefka
Substitutes present for the final vote	Daniel Buda, Angel Dzhambazki, Angelika Niebler, Virginie Rozière, Kosma Złotowski

## OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Budgetary Control

on Control of the Register and composition of the Commission's expert groups  
(2015/2319(INI))

Rapporteur: Helga Trüpel

### SUGGESTIONS

The Committee on Budgets calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas its Committee on Budgets, in light of the lack of transparency and the imbalanced composition of a certain number of expert groups (EGs), and given the need to make sure that the composition of EGs strikes the right balance in terms of expertise and of views represented, adopted budgetary reserves in 2011 and 2014 and formulated demands for their reform;
  - B. whereas a recent study it commissioned<sup>1</sup> has identified a widespread lack of transparency and an imbalance in composition in a certain number of EGs;
  - C. whereas the European Ombudsman put forward recommendations in which she underlined the need for greater EG transparency<sup>2</sup>;
  - D. whereas balanced composition and transparency are critical preconditions for the expertise to adequately reflect the needs for regulatory action and for fostering the legitimacy of this expertise and regulatory action in the eyes of European citizens;
  - E. whereas it welcomes, as a first step, the initiative taken by the Commission on an imminent reform of the EG;
1. Underlines that despite the progress that resulted from the 2011 budgetary reserve, the Commission has so far failed to alter the horizontal rules for EGs and their practices in a way that would meet Parliament's requests for transparency, and that the number of EGs in which there is an imbalance has remained largely unaltered since 2013 (currently 9 % of all EGs);
  2. Points out, in this context, and with regard to paragraphs 34-45 of the Ombudsman's

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<sup>1</sup> Policy Department D Budgetary Affairs, Composition of the Commission's expert groups and the status of the register of expert groups, 2015.

<sup>2</sup> European Ombudsman, Recommendation of the European Ombudsman in her strategic inquiry OI/6/2014/NF concerning the composition of Commission Expert Groups, 29.1.2016.

aforementioned opinion, that, although the Commission has not yet formally defined its concept of ‘balance’, the latter is not to be understood as the result of an arithmetic exercise but rather as the result of efforts to ensure that the members of an EG, together, possess the necessary technical expertise and breadth of perspectives to deliver on the mandate of the EG in question; considers that the concept of balance should, therefore, be understood as tied to the specific mandate of each individual EG; considers that the criteria to assess whether an EG is balanced should include the tasks of the group, the technical expertise required, the stakeholders who would be most likely affected by the matter, the organisation of groups of stakeholders, and the appropriate ratio of economic and non-economic interests;

3. Underlines that European citizens’ trust in the EU is suffering owing to a lack of transparency and the over-reliance on economic actors in EU lawmaking, and therefore underlines that the effective reform of the Commission’s expert groups system will make the EU more legitimate;
4. Welcomes the Commission’s public announcement that the revised framework for EGs will take up a number of Parliament’s and the Ombudsman’s suggestions, such as mandatory open calls for application, an improved register, mandatory registration in the Transparency Register for stakeholder representatives, a definition, for each EG, of the profiles needed to ensure a balanced composition, and mandatory declarations on conflicts of interest, which will be put on the register;
5. Urges the Commission to implement, moreover, the Ombudsman’s recommendations on transparency, namely that the agendas, background documents and minutes of EG meetings should be published, and that the published minutes should be as meaningful as possible and set out the positions expressed by the members;
6. Urges the Commission to follow best practice and build on existing positive examples to ensure a systematic implementation of improved horizontal rules, including an adequate oversight mechanism for all directorates-general in order to ensure coherent practice;
7. Invites the Commission to explore, in collaboration with the legislator and with civil society, ways to facilitate and encourage the participation of underrepresented groups, such as civil society and trade unions, in EGs, to tackle existing information asymmetries, and to assess the development of an allowance system which should support those groups in acquiring the expertise necessary for a fully effective participation in the EG;
8. Underlines that it will critically assess the reform efforts on the occasion of its vote on the 2017 annual budget and emphasises its determination to introduce a reserve if it considers that its demands are not being met in a satisfactory way;
9. Urges the Commission to ensure the full consultation of those groups currently underrepresented when putting forward proposals for the reform of the expert groups.

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	26.4.2016
<b>Result of final vote</b>	+: 30 -: 0 0: 0
<b>Members present for the final vote</b>	Nedzhmi Ali, Jean Arthuis, Jean-Paul Denanot, Gérard Deprez, José Manuel Fernandes, Eider Gardiazabal Rubial, Jens Geier, Bernd Kölmel, Zbigniew Kuźmiuk, Vladimír Maňka, Ernest Maragall, Sophie Montel, Clare Moody, Siegfried Mureşan, Liadh Ní Riada, Jan Olbrycht, Younous Omarjee, Paul Rübig, Petri Sarvamaa, Patricija Šulin, Inese Vaidere, Monika Vana, Daniele Viotti
<b>Substitutes present for the final vote</b>	Andrey Novakov, Helga Trüpel, Derek Vaughan, Anders Primdahl Vistisen, Tomáš Zdechovský
<b>Substitutes under Rule 200(2) present for the final vote</b>	Isabella Adinolfi, Jens Gieseke

## RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	9.1.2017
<b>Result of final vote</b>	+ :                    20 - :                    0 0 :                    0
<b>Members present for the final vote</b>	Inés Ayala Sender, Ryszard Czarnecki, Dennis de Jong, Martina Dlabajová, Luke Ming Flanagan, Jens Geier, Ingeborg Gräßle, Dan Nica, Georgi Pirinski, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Brian Hayes, Cătălin Sorin Ivan, Benedek Jávor, Julia Pitera, Miroslav Poche, Patricija Šulin
<b>Substitutes under Rule 200(2) present for the final vote</b>	Clare Moody