



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2012/2323(INI)

11.10.2013

OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on Legal Affairs

on follow-up on the delegation of legislative powers and the control by Member States of the Commission's exercise of implementing powers (2012/2323(INI))

Rapporteur: Sharon Bowles

PA_NonLeg

SUGGESTIONS

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

1. Points out that in the area of financial services the regulations on the European Supervisory Authorities (ESAs)¹ introduce regulatory technical standards (RTS) and implementing technical standards (ITS) under which ESAs submit draft RTS and ITS to the Commission for adoption; takes the view that, given the technical expertise and specialist skills of the ESAs, delegation should take the form of RTS rather than ordinary delegated acts wherever possible; considers that also before adopting ordinary delegated acts the Commission should seek technical advice from the relevant ESA on the content of those acts;
2. Emphasises that the choice of the correct legal instrument (legislative, delegated or implementing act or delegated act based on RTS) is not only a technical question; points out that, in fact, it is of the utmost importance to ensure that the legislature assumes full responsibility with regard to the essential elements and to the effective scrutiny of political decisions; notes that it can also be of considerable importance for the balance of power, the correctness and proper functioning of the decision-making process and the enforcement of policies that these various instruments are used in a way which complies with the criteria set out in the Treaty; stresses that the European Parliament should consequently pay particular attention to these aspects;
3. Stresses that the co-legislators should always aim to clarify and frame the purpose and necessity of any delegation in the level 1 text, setting out essential elements and policy guidance in the basic act and leaving only non-essential elements to be developed at the technical level;
4. Proposes that, in each parliamentary committee, the Chair, one of the Vice-Chairs or a relevant Member should be charged with supporting Members and guaranteeing coherence regarding delegated and implementing acts in co-ordination with the other committees; points out that the rapporteur for the basic act should, when available, automatically become the rapporteur for its follow-up and should report periodically to the committee; believes that, where appropriate, arrangements should be made to allow for continuity in the exercise of scrutiny by returning members who were involved in the level 1 text before the elections;
5. Considers that drafts of level 1 texts should always be accompanied by a full timeline – prepared in consultation with the relevant ESA – for essential delegated acts and RTS,

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), OJ L 331, 15.12.2010, p. 12; Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), OJ L 331, 15.12.2010, p. 48; Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), OJ L 331, 15.12.2010, p. 84, in particular Articles 10 to 15 thereof.

including consultation periods and implementation time;

6. Emphasises that Parliament and the Council should be fully informed of the timeline and of the content of envisaged delegated measures; takes the view that the intention to endorse or reject a draft RTS should be sent in writing to the Chair of Parliament's competent committee and to the rapporteur and shadow rapporteurs, giving reasons; holds that in the case of delegated acts the Commission must likewise inform Parliament and the Member States when it does not intend to follow ESA advice, specifying the areas in which it has chosen not to do so and why, and including, where appropriate, the result of public consultations and thorough cost-benefit and legal analyses to support its decision, as well as reasoned answers to any written comments raised by the co-legislators; considers that there should be full transparency on progress; observes that the Commission's interpretation of the Framework Agreement² sometimes makes it difficult and cumbersome for Parliament experts to attend expert group meetings dealing with delegated acts and means that Parliament is not placed on an equal footing with the Council;
7. Calls on the Joint Committee to coordinate the ESAs' work horizontally and requests that they attend ECON committee hearings to brief the Parliament on ongoing work in the field of delegated acts and ITS;
8. Points out that in the recently adopted Capital Requirements Regulation (CRR) and Capital Requirements Directive (CRD) the time period for scrutinising RTS may be extended by a further month given their volume and complexity, and considers that this kind of flexibility should become a general rule; considers that deadlines for objections by Parliament to delegated acts adopted by the Commission need to be sufficiently long to allow for the full exercise of Parliament's rights of scrutiny, taking into account the plenary calendar and workload; takes the view that the standard deadline of two months, extendable by two months, as provided for in the Common Understanding is not sufficiently long for complex matters and extensive delegated acts, which call for a longer scrutiny period to be set; recalls that the co-legislator has full discretion regarding the period of scrutiny to be set in the basic act; stresses, in this regard, that where the Common Understanding provides guidelines in relation to deadlines, it is in no way binding and therefore does not limit the legislator in this respect; points out that the legislator has set a period of scrutiny of three months, extendable by three months, for all delegated acts in the area of financial services, and considers that this practice should be extended to other areas of a complex nature;
9. Stresses that Parliament's recess periods during the summer break and at the end of the year, along with the end of the parliamentary term, need to be taken into account in the calendar for the adoption of delegated acts, so as to avoid situations where Parliament cannot exercise its scrutiny on account of a recess period or the end of the parliamentary term; considers that appropriate provisions to that effect should be included in the provisions empowering the Commission to adopt delegated acts; emphasises that the arrangements according to which no delegated act may be submitted during Parliament's recess periods should also apply to RTS; observes that, as an objection requires an

² Framework Agreement on relations between the European Parliament and the European Commission (OJ L 304, 20.11.2010, p. 47).

absolute majority, votes in plenary on an objection to a delegated act should be carefully scheduled;

10. Considers it fundamental that procedures and measures are put in place for the period during which the 2014 elections are taking place, in particular on recently and soon-to-be adopted legislation including CRR, Solvency II, EMIR, Omnibus II and MiFID;
11. Considers that when ESAs need to be granted further time for consultation and for the development of RTS they should inform Parliament's competent committee of the reasons for any delay in the submission of draft RTS and when requested to do so, address Parliament's competent committee; considers that the Commission should inform Parliament's competent committee in the event of a new timeline for the submission of draft RTS being established;
12. Believes that the call for stakeholders to sit in the ESA stakeholder groups should last for a sufficient length of time (not less than two months), be issued via a variety of channels and follow a clear and streamlined process in order to ensure that a broad base of candidates apply; recalls the need for balanced ESA stakeholder groups in line with the provisions of the respective regulations.

RESULT OF FINAL VOTE IN COMMITTEE

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| Date adopted | 30.9.2013 |
| Result of final vote | +: 32 -: 0 0: 0 |
| Members present for the final vote | Marino Baldini, Jean-Paul Basset, Sharon Bowles, George Sabin Cutaş, Leonardo Domenici, Markus Ferber, Elisa Ferreira, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Gunnar Hökmark, Jürgen Klute, Philippe Lamberts, Werner Langen, Ivana Maletić, Arlene McCarthy, Anni Podimata, Peter Simon, Ivo Strejček, Ramon Tremosa i Balcells, Corien Wortmann-Kool, Pablo Zalba Bidegain |
| Substitute(s) present for the final vote | Fabrizio Bertot, Zdravka Bušić, Mojca Kleva Kekuš, Olle Ludvigsson, Catherine Stihler, Nils Torvalds, Oleg Valjalo |
| Substitute(s) under Rule 187(2) present for the final vote | Wim van de Camp |