



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Legal Affairs

2010/2006(INI)

1.6.2010

OPINION

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on a Cross-Border Crisis Management in the Banking Sector
(2010/2006(INI))

Rapporteur: Sebastian Valentin Bodu

PA_NonLeg

SUGGESTIONS

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

- A. whereas there is an internal market for banking services in the Union, and not an amalgam of services independent of one another, and whereas that internal market is critical for the Union's global competitiveness,
1. Believes that the European Banking Authority should have the power to implement binding measures at Union level applicable to all Member States, whilst also empowering national supervisors to conduct day-to-day supervision to the highest possible level;
 2. Takes the view that 'living wills' should be approved by the supervisors that conduct daily supervision of banks, in order to ensure that changes are noticed and taken into account, so that 'living wills' can be kept up-to-date and relevant;
 3. Believes that dismantling a banking group should also be an option at the initial stage (early intervention);
 4. Considers that the transfer of assets/liquidities from a subsidiary/branch to a parent company should not be permitted if this would destabilise the subsidiary/branch and would have major adverse consequences for the host Member State;
 5. Believes that early intervention in banking crises, and their resolution, should be initiated on the basis of clearly defined criteria, including sub-capitalisation, reduced liquidity and the deterioration of asset quality and value; takes the view that intervention should be tied in with deposit guarantee schemes;
 6. Takes the view that the purpose of a EU framework for cross-border crisis management is to empower the authorities to adopt measures that include intervention in the management of banking groups, when this is necessary (and especially, but not exclusively, in deposit-taking banks, where there is a possibility of systemic risk);
 7. Considers, similarly, that the purpose of a EU framework for cross-border crisis management is also to regulate cross-border banking groups and individual banks conducting cross-border operations exclusively through branches; believes also that there should be uniform regulation in regard to cross-border banking groups;
 8. Notes that the Authority should operate on the basis of the following principles:
 - equal protection of creditors and minority shareholders in all the Member States where a bank has branches/subsidiaries;
 - proportional distribution of the costs connected with early intervention in, and the resolution of, banking crises, among all the Member States on whose territory the bank to which intervention relates has been operating (e.g. based on the value of its assets in each State); believes the option of periodical joint financing to be less desirable;

9. Expresses the opinion that derogations should nevertheless be made from certain of the requirements imposed by EU company law, to permit intervention by an authority in banking activities where this is justified in the public interest;
10. Considers that if the issue of compensating shareholders, creditors or market counterparties should arise, then compensation should be based on the liquidation value of the bank, without factoring in any amounts received in public aid;
11. Believes that cooperation and communication between authorities and administrators responsible for the resolution and insolvency of cross-border banking groups can be improved by establishing a set of *ex-ante* guidelines;
12. Is of the view that any public aid or resolution fund must be designed in such a way as to avoid moral hazard and prevent excessive risk-taking; considers, in particular, that no resolution funds should be used to bail out shareholders of banks, who must face the full consequences of any losses, and that no resolution funds should be used for the payment of bonuses;
13. Reminds the Commission of the importance of carrying out full impact assessments in any consideration of the question whether new guidelines for the management of companies would be appropriate;
14. Believes that a uniform approach to preventing the failure of banking groups would be more in keeping with the concept of an internal market.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	1.6.2010
Result of final vote	+: 23 -: 0 0: 0
Members present for the final vote	Raffaele Baldassarre, Luigi Berlinguer, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Gerald Häfner, Daniel Hannan, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Alajos Mészáros, Evelyn Regner, Dimitar Stoyanov, Alexandra Thein, Diana Wallis, Rainer Wieland, Cecilia Wikström, Zbigniew Ziobro, Tadeusz Zwiefka
Substitute(s) present for the final vote	Piotr Borys, Kurt Lechner, Toine Manders, Angelika Niebler
Substitute(s) under Rule 187(2) present for the final vote	Mara Bizzotto, Jutta Steinruck