Opinion of the European Economic and Social Committee on the Proposal for a Decision of the European Parliament and of the Council of […] establishing a Community programme to support specific activities in the field of financial services, financial reporting and auditing

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On 3 February 2009 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

'*Proposal for a Decision of the European Parliament and of the Council of […] establishing a Community programme to support specific activities in the field of financial services, financial reporting and auditing*'

On 24 February 2009 the Committee Bureau instructed the Section for the Single Market, Production and Consumption to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr BURANI as Rapporteur-General at its 452nd plenary session, held on 24 and 25 March 2009 (meeting of 24 March), and adopted the following opinion by 95 votes to 3 with 14 abstentions.

1. Summary and conclusions

1.1 The ongoing crisis calls for a re-examination of the set of rules that regulate financial activities; with regard to **supervision**, the report of the Group chaired by Jacques de Larosière sets out a number of recommendations which, at the same time, constitute a careful analysis of the weaknesses in the rules and practices of the past.

1.2 The Commission proposal under consideration is in line with these recommendations, and in a sense, pre-empts them. It allocates Community funds for **grants** for the three technical and legal support structures of the Committees of Supervisors: EFRAG, IASCF and PIOB. These grants are meant to ensure the independence of these bodies from external influences. The EESC is in agreement but would point out that the three bodies have been created by the sectors for these same sectors, and that even when their standards are incorporated in EU and international rules, they remain private sector bodies. It is **difficult to separate the public interest from the activities carried out on behalf of these sectors**.

1.3 **A financial contribution** is also envisaged **for specific actions of the Committees of Supervisors**, which are advisory support bodies set up by the Commission and made up of representatives from the Member States' national supervisory authorities. The specific actions are identified as the training of staff of national supervisory authorities and the management of information technology projects. The EESC has doubts about this point because since the beneficiaries of the training and projects are the Member States, **it is unclear why EU funding should be used**.

2. Introduction

2.1 The ongoing international crisis has caused, and continues to cause, huge damage the full extent of which cannot as yet be fully evaluated, but which will certainly be very far reaching. Besides the grave economic and social consequences, there has been just one positive outcome: it has forced a **stringent reassessment of the standards** applied by the financial world thus far **and of the certainties** that have clouded perceptions of the risk inherent in all financial activities.

2.2 Such a reassessment demands sincere self-criticism from all stakeholders caught up in the storm regarding their own conduct, evaluations and actions. Financial actors, legislators, monitoring authorities, rating agencies, economists - they all bear a share of responsibility. On the other hand, none of them are solely and wholly responsible. Ongoing events and a recapitulation of past actions reveal that **the crisis is the outcome of a number of concomitant and interdependent factors**.

2.3 **Deficient supervision** stands out sharply from among the many causes of the crisis. The rules appeared to be well-designed but proved inadequate to cope with, let alone foresee, the now well-known consequences; and in some instances, they were the cause. The situation analysis and recommendations for remedying these deficiencies are set out in the **report of the de Larosière Group**. In accordance with the group's recommendations, and pre-empting them with laudable timeliness, the Commission has presented a proposal to establish a Community programme to **support activities that will provide instruments to supervise financial activities more effectively**.

2.4 The programme envisages **grants for three legal structures** to provide technical and legal support to the supervisory authorities in the field of **securities, banking, insurance and pensions**. The three legal support structures for **financial reporting** are the European Financial Reporting Advisory Group (**EFRAG**) and the International Accounting Standards Committee Foundation (**IASCF**); and for **auditing**, the Public Interest Oversight Board (**PIOB**).

2.5 **A financial contribution** is also envisaged **for specific actions of the Committees of Supervisors**, which are independent advisory bodies with no legal personality, set up by the Commission in the three fields and made up of the national supervisory authorities. These bodies act as bodies for debate, reflection and advice for the Commission and 'they contribute to the consistent and timely implementation of Community legislation in the Member States'. The three committees do not have legal personality; in order for them to be able to contract with third parties, it has been necessary to set up **support structures** with legal personality for each one in each Member State where these committees are situated, i.e. the United Kingdom for banking supervision (**CEBS**), France for securities (**CESR**), and Germany for insurance and pensions (**CEIOPS**).

3. Observations and comments

3.1 The Committee welcomes the Commission's initiative to provide increasingly sophisticated instruments for supervising the financial sector, in line with the recommendations of the de Larosière Group. It notes, however, that there have been no innovations to the missions or functions of the three legal structures that will benefit from grants or the committees that will receive financial contributions. Thus the financial contributions serve to improve the present situation, which indicates satisfaction with the structures as such, but also the need to improve or bolster the services they provide.

3.2 The two bodies operating in the field of **financial reporting**, IASCF and EFRAG, are founded on high-quality international accounting standards, which are partly incorporated into Community law. According to the Commission they ensure that 'investors, creditors and other stakeholders have access to timely, reliable and relevant information about the financial conditions of companies'. This statement is belied by the facts. Before any reforms are undertaken, decision makers must answer the **question as to whether the failure was due to deficient accounting standards or to carelessly applied accounting rules**.

3.2.1 In the most sensitive sector where major deficiencies were identified, i.e. **the securities markets**, where IASCF and EFRAG rules apply, the Commission explicitly stresses the vital importance of independence from 'undue influence from parties with a stake' and 'non-diversified, voluntary funding from interested parties' as one of the justifications for grants. The matter has been raised in the past at the ECOFIN Council and in the European Parliament. However, another question now presents itself: since these bodies require resources to carry out their sensitive function, **is a 'grant' enough to ensure their independence**? The EESC believes that this question deserves further analysis.

3.3 The same considerations apply equally to **auditing** regarding the grant to PIOB, the body that oversees the process leading to the adoption of ISA (International Standards for Auditing) and other public interest activities of IFAC (International Federation of Accountants). The possible introduction of ISA into Community law (Directive 2006/43/EC) justifies the interest in the **neutrality of rules** and the fact that the Commission is represented by two of the ten members on PIOB's management bodies.

3.4 To conclude on the subject of 'grants', the EESC agrees with the Commission on the need to provide the bodies responsible for international standards with sufficient means to ensure the efficiency and independence of their work. This point is made repeatedly, in more or less explicit terms, which is a clear indication that there is an underlying problem. These bodies were established by the sectors in order to set rules and standards for the sectors themselves; they remain private sector bodies, even when these rules and standards are incorporated into public law. At this stage, it becomes difficult, within a single body, to **separate** the **public interest from the activities carried out on behalf of the sectors** which have legal control over that body.

3.5 Financial contributions for the **Committees of Supervisors** are specifically intended for the **training of staff** of national supervisory authorities and the **management of information technology projects**. As has already been explained, these committees are independent advisory bodies set up by the Commission and made up of the national authorities. Staff training (recommendation 19 of the de Larosière Report) and project management are undoubtedly important and are also entirely for the benefit of Member States: **the EESC cannot understand why these actions should not be financed by the Member States themselves rather than from Community resources**.

3.6 At the end of its proposal, the Commission mentions the need to introduce a flexibility criterion when selecting the beneficiaries of grants: further analysis of the arrangements for dealing with the crisis could reveal the need to set up new bodies or give new responsibilities to the existing ones. It might therefore prove necessary to add a new beneficiary to one that has already been identified. The EESC has no objection to this but would recall the need to **avoid any unnecessary increase in the number of bodies** involved in the programme. It would be better, as far as possible, to extend the functions of existing bodies.

Brussels, 24 March 2009.

The President
of the European Economic and Social Committee
Mario SEPI