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P6_TC1-COD(2008)0047

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(2010/C 15 E/47)

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Key to symbols used

- * Consultation procedure
- **I Cooperation procedure: first reading
- **II Cooperation procedure: second reading
- *** Assent procedure
- ***I Codecision procedure: first reading
- ***II Codecision procedure: second reading
- ***III Codecision procedure: third reading

(The type of procedure is determined by the legal basis proposed by the Commission.)

Political amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ***||***.

Technical corrections and adaptations by the services: new or replacement text is highlighted in italics and deletions are indicated by the symbol *||*.

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I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

Building a Global Climate Change Alliance

P6_TA(2008)0491

European Parliament resolution of 21 October 2008 on building a Global Climate Change Alliance between the European Union and poor developing countries most vulnerable to climate change (2008/2131(INI))

(2010/C 15 E/01)

The European Parliament,

- having regard to the Commission Communication of 18 September 2007 entitled 'Building a Global Climate Change Alliance (GCCA) between the European Union and poor developing countries most vulnerable to climate change' (COM(2007)0540),
- having regard to the Council conclusions of 20 November 2007 on Global Climate Change Alliance between the European Union and poor developing countries most vulnerable to climate change,
- having regard to the Commission Communication of 11 March 2003 entitled 'Climate Change in the Context of Development Cooperation' (COM(2003)0085),
- having regard to the Commission's 2007 Progress Report (2004-2006) on the EU Action Plan on Climate Change and Development,
- having regard to the Paper of 14 March 2008 from the High Representative and the European Commission to the European Council entitled 'Climate Change and International Security',
- having regard to the Commission Green Paper of 29 June 2007 entitled 'Adapting to climate change in Europe — options for EU action' (COM(2007)0354),
- having regard to the joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus' ⁽¹⁾,

⁽¹⁾ OJ C 46, 24.2.2006, p. 1.

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- having regard to the Paris Declaration on Aid Effectiveness adopted on 2 March 2005 following the High-Level Forum on Aid Effectiveness ('the Paris Declaration'),
 - having regard to the Joint Statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission: 'The European Consensus on Humanitarian Aid' ⁽¹⁾,
 - having regard to the 1992 United Nations Framework Convention on Climate Change (UNFCCC),
 - having regard to the Human Development Report 2007/2008 entitled 'Fighting climate change: Human solidarity in a divided world' launched by the United Nations Development Program,
 - having regard to the Male' Declaration on the Human Dimension of Global Climate Change adopted in Male' (Republic of Maldives) on 14 November 2007,
 - having regard to the Bali Roadmap adopted at the United Nations Climate Change Conference on the island of Bali (Indonesia) in December 2007,
 - having regard to the Fourth Assessment Report entitled 'Climate Change 2007: Impacts, Adaptation and Vulnerability' prepared by the Working Group II of the Intergovernmental Panel on Climate Change (IPCC),
 - having regard to the report of 2006 by Nicholas Stern entitled 'The Economics of Climate Change: The Stern Review',
 - having regard to the Declaration on Integrating Climate Change Adaptation into Development Cooperation, adopted by Development and Environment Ministers of Organisation for Economic Cooperation and Development (OECD) Member Countries on 4 April 2006,
 - having regard to the OECD Report of 2007 entitled 'Stocktaking of Progress on Integrating Adaptation to Climate Change into Development Cooperation Activities',
 - having regard to the 'Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters' adopted by the World Conference on Disaster Reduction held in January 2005 in Hyogo (Japan),
 - having regard to the biennial report of the UN Food and Agriculture Organisation (FAO) entitled 'State of the World's Forests 2007',
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Development and the opinions of the Committee on Foreign Affairs, the Committee on Budgets and the Committee on Industry, Research and Energy (A6-0366/2008),
- A. whereas climate change poses a serious threat to poverty reduction, human rights, peace and security, water and food availability, and the achievement of the Millennium Development Goals (MDGs) in many developing countries,
- B. whereas in some developing countries forests are being cleared for biofuel crops,

⁽¹⁾ OJ C 25, 30.1.2008, p. 1.

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- C. whereas industrialised countries have a historical responsibility for climate change and are morally obliged to assist developing countries in their efforts to adapt to its consequences,
- D. whereas developing countries have contributed least to climate change but will suffer most severely from its consequences, including water and food insecurity owing to drought and desertification, rising sea levels, new challenges for agriculture, new risks to health, extreme meteorological events and migratory pressures; whereas developing countries will also have the least capacity to deal with these consequences,
- E. whereas, in many industrialised countries, measures for climate change adaptation and risk reduction have received considerable attention recently, and whereas the same urgent needs have been largely neglected in the context of low-income countries,
- F. whereas illegal and unsustainable logging imports into the EU are a significant driver of deforestation and are estimated to cost impoverished countries billions of euros annually,
- G. whereas deforestation contributes to an estimated 20 % of total greenhouse gas (GHG) emissions, leading to an estimated loss of 13 million hectares of tropical forests annually; and whereas deforestation in the tropics is a serious threat to biodiversity and the livelihoods of the more than one billion poor people living in and from such forests,
- H. whereas the concrete consequences of climate change often have to be dealt with at local level by local authorities; whereas the proper linking of international, national and local levels of policy-making is therefore a key challenge in designing effective climate change adaptation and mitigation strategies; and whereas large-scale structural changes must be achieved, without sacrificing a community-based pro-poor approach,
- I. whereas there is an increased recognition of the security threats posed by climate change, including conflicts over scarce natural resources, climate-induced natural disasters and large-scale migration flows; and whereas developing strategies to face joint climate/security challenges will be vital to ensuring an effective adaptive response in developing countries,
- J. whereas international efforts in the field of climate change adaptation and disaster risk reduction (DRR) have so far been limited, fragmented, ill-coordinated and in many cases difficult to access for developing countries, which is in direct contrast to the objectives outlined in the European Consensus and the Paris Declaration,
- K. whereas climate change adaptation measures, DRR and capacity building for development ought to be highly interlinked, but so far they have been poorly integrated into the activities of development cooperation agencies and international institutions; and whereas a joint and coherent approach would be crucial for successful implementation of the GCCA,
- L. whereas it is necessary to establish multi-disciplinary teams of disaster managers, development specialists, planners and adaptation/climate science experts, which should adopt best practices for regional development,
- M. whereas early action on climate change adaptation and DRR represents a clearly cost-effective solution; whereas estimates predict that one dollar spent on DRR has the potential to save up to seven dollars in disaster response, thereby also providing a strong argument for frontloading aid spending,

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- N. whereas, consequently, any attempt at double counting of EU funding for the attainment of MDG targets and promises made in the framework of the UNFCCC should be rejected,
- O. whereas any delay in taking firm decisions on the measures necessary to reduce the causes and effects of climate change will result in much higher costs,
- P. whereas most environmental problems, including those arising from climate change, tend to be aggravated by population growth and greater population size, whilst population dynamics, in terms of growth, distribution and composition are an integral part of the development process as they both affect and are affected by environmental change; and whereas the 1994 International Conference on Population and Development in Cairo clearly highlighted the multiple benefits that arise from dedicated, locally oriented, non-coercive population policies, yet population issues nevertheless have thus far remained largely unincorporated into planning for either development or adaptation,
- Q. whereas agriculture, water, management of forest resources, health, infrastructure, education as well as population policies must all be addressed in order to achieve effective mainstreaming of climate change adaptation and mitigation into development,
- R. whereas reduction of corruption would increase the effectiveness of climate change adaptation and mitigation efforts,
- S. whereas the abovementioned 2007 Progress Report on the EU Action Plan on Climate Change and Development shows that progress in mainstreaming climate change into EU development policies, specifically in Country Strategy Papers (CSPs) and Regional Strategy Papers (RSPs), has been insufficient and much too slow,
- T. whereas there is currently a huge gap as regards the financing of adaptation in developing countries; whereas while estimated annual adaptation costs range from USD 50 to 80 billion per annum, the total amount of funds committed through multilateral funding mechanisms in mid-2007 amounted to less than 0,5 % of these figures,
- U. whereas, even though the EU has set itself the target of becoming a leader in the fight against climate change, the EU budget does not reflect the priority given to the policies and measures adopted by the EU for the fight against climate change,
- V. whereas part of the GCCA funding will come from European Development Fund (EDF) and the Environment and Natural Resources Thematic Programme (ENRTP) (in line with Article 13 of the Development Cooperation Instrument (DCI) ⁽¹⁾),
- W. whereas the EDF has mainly been used to finance new initiatives; whereas the Commission should respect its commitment to find new financing sources in order to preserve the EDF; whereas the Committee on Development has concluded on numerous occasions that the EDF should be integrated into the EU budget in order to ensure democratic control over the way it is used,
- X. whereas in accordance with Article 21 on the adoption of strategy papers and multiannual indicative programs and Article 35(2) of the DCI, Parliament has a right of scrutiny over Commission actions as laid down in Articles 5 and 8 of Decision 1999/468/EC,

⁽¹⁾ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation (OJ L 378, 27.12.2006, p. 41).

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Y. whereas the Clean Development Mechanism (CDM) has so far been poorly suited to meeting the needs of the poorest countries for investments in clean technology, with Africa hosting less than 3 % of all CDM projects, and nearly 90 % of Certified Emission Reductions (CERs) being granted for projects carried out in China, India, Korea and Brazil,

1. Welcomes the Commission's initiative to launch a GCCA, which represents an important recognition of the effects of climate change on development; however, calls on the Commission to clarify further the distinct added value of the GCCA; in this context stresses that coordination and cooperation with other main actors must be an integral part of the GCCA's agenda, so as to ensure optimal complementarity among initiatives;

2. Considers the GCCA to be an important pillar of the EU's external action on climate change and to constitute a complementary and supportive platform for the ongoing process in the context of the UNFCCC and the Kyoto Protocol, serving to advance their implementation and that of agreements related thereto;

3. Reiterates the alarming conclusions of the abovementioned Paper entitled 'Climate Change and International Security', which warned that climate change is intensifying security risks for the EU, threatening to overburden states and regions of the world which are already fragile and prone to conflict, and undermining efforts to attain the MDGs;

4. Notes that efforts to combat climate change need to be based not only on political impetus but also on civil society, in both developed and developing countries; considers that public information campaigns should be launched and education programmes in schools and universities adopted both to provide citizens with analyses and evaluations of the state of climate change and to propose appropriate responses, especially in terms of changing lifestyles in order to reduce emissions;

5. Emphasises that enhanced coordination and collaboration between the Commission and Member States is crucial in the area of EU policy on climate change and development; the GCCA representing a unique opportunity to live up to the principles underpinning the European Consensus and the Paris Declaration, as well as the Programme of Action of the 1994 Cairo International Conference on Population and Development (ICPD); furthermore is convinced that one of the key roles of the GCCA should be to provide a 'clearing house' for Member State initiatives;

6. Calls on the EU to place climate change at the core of its development cooperation policy; believes furthermore that the fight against climate change must address structural causes and calls for a systematic climate change risk assessment covering all aspects of policy planning and decision-making, both in the EU and in developing countries, including in relation to trade, agriculture and food security;

7. Stresses that the GCCA should take concrete measures to address coherence between, on one hand, the impact of climate change on development, including EU agriculture, trade and fisheries policies and, on the other hand, problems relating to export subsidies, such as tied aid, debt burden, export credits and commercial use of food aid, forced privatisation and liberalisation of vital economic sectors;

8. Points out that since the GCCA, with EUR 60 million in funding for the period 2008-2010, is to be complementary to the ongoing process in the UNFCCC, overlapping of actions should be avoided and the funds concentrated on actions that provide the highest added value; believes that once a post-2012 climate change agreement has been reached, GCCA objectives and funding need to be reviewed in the light of the outcome;

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9. Is of the opinion that funds outside the UNFCCC cannot be counted as part of developed countries' implementation of their commitments under that Convention;
10. Considers the EUR 60 million committed to the GCCA so far to be woefully inadequate; calls on the Commission to establish a long-term financing goal for the GCCA of at least EUR 2 billion annually by 2010 and EUR 5-10 billion annually by 2020;
11. Calls on the Commission to provide detailed information on existing financial mechanisms for climate change and development at national and international levels; calls on the Commission, based on this information, to urgently propose what measures to use to scale up EU financial support for climate change and development, ensuring the best possible coordination and complementarity with existing initiatives;
12. Stresses that, if climate change is to be taken seriously, new funding must be made available through different budget lines and new financing sources, such as humanitarian funds in response to climate-related catastrophes, Common Foreign and Security Policy (CFSP) funds and the Instrument for Stability in the context of preventive security policy or in response to climate-related security threats or conflicts, other external action funds whenever appropriated, as well as green taxes, public-private partnerships (PPP) and other innovative financing mechanisms intended for this purpose;
13. Notes with interest the Presidency Conclusions of the European Council of 19 and 20 June 2008 and their budgetary implications; considers that these budgetary requirements can only be addressed by having recourse to the means provided for by the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management ⁽¹⁾; underlines once again that new appropriations should be provided for new tasks;
14. Notes in this context that EU Official Development Assistance (ODA) still falls short of the target of 0,56 % of EU Gross National Income (GNI) by 2010 and that it is hard to see how the EU will be able to fulfil all its commitments without recourse to new innovative resources;
15. Calls on the Commission to increase immediate funding for the GCCA, which might initially be achieved, as a matter of urgency, through the ENRTP as well as the 10th EDF; stresses at the same time the urgent need for additional, non-ODA funds for adaptation and developing innovative finance mechanisms for this purpose;
16. Reminds the Commission that if funds are drawn from the ENRTP or the EDF to finance the GCCA they should, as development funds, only be used for actions compatible with development assistance as defined by the OECD's Development Assistance Committee (DAC); insists that this should be a one-off source of funding, and that further replenishment must be found from alternative sources;
17. Calls on the Commission to ensure that funding of the GCCA through ENRTP and the EDF will not be at the expense of other important development cooperation goals, such as those relating to education, health, gender equality or access to water;
18. Stresses that Member States must take a much greater responsibility for the funding of and alignment of their development activities with the GCCA;
19. Calls on the Commission and Member States to agree to earmark at least 25 % of expected revenues from auctioning within the EU Emissions Trading Scheme (EU ETS) in the next trading period to funding of the GCCA and other climate change measures in developing countries, including efforts to protect forests and reduce emissions from deforestation and forest degradation;

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

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20. Calls on the Commission to use the upcoming review of the EU budget as an opportunity to re-evaluate the EU's overall spending priorities and channel additional funds to climate change and development in general and the GCCA in particular; including by reallocating Common Agricultural Policy (CAP) funds;
21. Calls on the Commission and Member States to implement urgently the idea of a global climate change financing mechanism, building upon the model of the International Finance Facility for Immunisation (IFFIm) and the concept of front-loading aid, in order to secure significant amounts of funding for the GCCA within a relatively short period of time;
22. Calls on the Commission to invite the private sector to become a close partner to the GCCA, recognising that public money could play a catalysing role by incentivising investments and delivering access to markets and technology; specifically encourages the Commission to invest in developing PPP models in key areas such as providing water security and infrastructure in vulnerable areas, where financing gaps currently are substantial, given that climate change affects many policy areas (such as access to water, public health, energy supply) involving intervention from the State and local authorities; recalls that the priority of the EU should be to reinforce capacity for public action in these areas;
23. Calls on the Commission to engage in partnerships with the private insurance industry and explore methods of scaling up pilot insurance schemes to finance adaptation/DRR, addressing both national and regional and individual levels of insurance;
24. Regrets that the overall involvement of developing country governments, civil society and local authorities has been inadequate throughout the programming process of the GCCA; calls on the Commission to ensure that decision-making throughout the elaboration, implementation, fund distribution and assessment processes takes place in partnership with interested parties;
25. Calls on the Commission to use the GCCA to support and strengthen partner countries' capacities to identify, manage and mitigate security threats posed by climate change and encourages the Commission to devote additional funds to this purpose; further calls on the Commission to ensure that its Directorate-General for External Relations is fully involved throughout the process of programming and implementing the GCCA, to ensure optimal coherence between development cooperation, climate change and foreign and security policies;
26. Calls on the Commission to use the GCCA to initiate discussions both with the donor community and with partner countries on increasing preparedness and contingency planning for large-scale migration in the event that certain regions become uninhabitable due to climate change;
27. Insists that effective reporting mechanisms, including detailed indicators of progress and follow-up schemes, must adhere to the GCCA;
28. Believes that a specific added value and competence of the GCCA could be forging a link between local adaptation action and the global climate and development policy frameworks; welcomes in this context the 'political dialogue' strand of the GCCA as an important step in connecting the poverty reduction agenda and the MDGs with the climate change agenda; stresses however that the GCCA will only be successful if it is part of an overall EU strategy for the post-2012 negotiations, where strong support for mitigation as well as adaptation activities in developing countries is a top priority;

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29. Encourages the Commission to use the policy dialogue and its envisaged EU/Least Developed Countries (LDCs)/Small Island Development States (SIDS) Joint Declaration as a forum for advancing the idea of a 'Global Contract', where development cooperation and climate change-related activities are closely integrated with attention to population concerns incorporated as an explicit element, as envisioned in the Global Marshall Plan initiative;

30. Stresses the need to accelerate efforts to mainstream climate change adaptation, DRR and action on population and reproductive health into both Commission and Member State development aid, particularly in the implementation stage, since from a systemic perspective these areas are absolutely fundamental; calls on the Commission to take advantage of the upcoming mid-term review of CSPs to make progress in this field;

31. Insists that the Commission, alongside the GCCA, must continue developing its response to the 2007 Progress Report on the EU Action Plan on Climate Change and Development, containing many important elements which must not be lost, including the creation of on-the-field 'clearing houses' to improve coordination and access to information;

32. Underlines that the development and implementation of National Adaptation Programs of Action (NAPAs) through the Global Environment Facility (GEF) funds has experienced several shortcomings, due to inadequate funding, underestimation of adaptation costs, weak links to human development, overly bureaucratic channels of access and a project-based bias; calls on the Commission to address fully these shortcomings when providing further support to NAPA implementation in LDCs and SIDS through the GCCA; in this context welcomes the Commission's intention to explore programme-based capacity building of governance institutions using budget support;

33. Stresses that successful use of budget support for development-oriented climate change adaptation depends on extensive use of all means available within budget support arrangements, including discussion of policy priorities, long-term monitoring, and technical assistance for budget formulation and execution; further stresses the need for active involvement of civil society and local communities; also urges the Commission to be prepared to make use of complementary measures where budget support is not appropriate or where it fails to benefit the poor and most vulnerable;

34. Calls on the Commission to ensure that the GCCA's planned research on adaptation in developing countries has a clear 'bottom-up' perspective, is directed towards the poor and most vulnerable, guided by the needs of local communities and carried out in cooperation with the people concerned; emphasises the importance of results from adaptation research being communicated to its target groups through accessible media channels;

35. Calls on the Commission to devote significant resources to research on the economics of adaptation in developing countries, including improving understanding of the future costs of the necessary restructuring of trade, agriculture and security policies and institutions; recognises that knowledge gaps in this field constitute a barrier to effective adaptation action and spending from both public and private actors;

36. Emphasises the importance of transferring knowledge and technology — including disaster risk reduction technology — to GCCA partner countries; to this end, calls on the Commission to promote a web-based 'library' of relevant climate adaptation data and to facilitate an exchange programme for climate adaptation experts between those countries;

37. Reiterates the importance of policy coherence and requests the Commission to address the issue of integrating climate change into poverty reduction efforts at the time of the EU budget review as well as the mid-term review of the different development instruments;

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38. Calls on the Commission to devote more attention to the impact of climate change on agriculture and forestry and to the adjustment of agriculture and forestry to climate change; calls on the Commission to use the GCCA to support the development of environmentally sound agricultural policies, with priority given to guaranteeing people's food security; further calls on the Commission to help create an appropriate institutional and financial framework for the rural poor depending on agriculture for their livelihoods;

39. Stresses that agriculture in poor developing countries is directly and strongly affected by climate change, which can have dramatic consequences on food security; therefore calls on the Commission to use the GCCA to develop agricultural policies and production methods which better meet the needs of local population and constitute a long-term solution to the soaring food prices; encourages in particular the Commission to support innovative solutions such as creating 'green belts' around cities to respond to the basic food needs of urban populations in developing countries;

40. Welcomes the Commission's intention to propose an EU Strategy for DRR, signifying an important step in bridging the gap between DRR, development and adaptation efforts; in this context calls on the Commission to clarify how the GCCA can facilitate this integration on a practical level;

41. Stresses that a DRR strategy will not produce significant results without a concrete action plan and a major redirection of budget allocations to secure long-term funding for DRR and adaptation as a part of regular development aid, rather than, as is the case today, a short-term and poorly prioritised humanitarian concern;

42. Stresses that there is a great need for additional human resources within EuropeAid and EU delegations in order to ensure a successful implementation of the GCCA; calls on the Commission to devote substantial resources to this area in the 2009 EU budget; more widely, also calls on the Commission to devote significantly more resources to staff training on climate change adaptation and DRR in relevant Commission Directorates-General and delegations, particularly focusing on enhancing practical know-how;

43. To the extent that the GCCA entails action on mitigation, stresses that LDCs and SIDS need capacity-building and technical support in order to be able to enhance their participation in the CDM; also calls on the Commission to actively engage in international climate change negotiations with the goal of strengthening the CDM, to ensure additionality and coherence with development and climate goals; further calls on the Commission not to focus exclusively on CDM as the ultimate policy tool, but also provide alternative support for mitigation action more suitable for the poorest countries, with priority given both to land use, land-use change and forestry (LULUCF) activities and low-carbon technologies;

44. Calls on the Commission to urgently develop ambitious complementary policy initiatives, particularly in the fields of forest and marine protection, sustainable use of natural resources and mitigation technology cooperation, where financial needs widely exceed what is provided for within the GCCA at present; specifically calls on strong EU action in the form of financial support, technical assistance and technology transfer and cooperation to developing countries to facilitate the use, at the earliest stage possible, of technologies which emit little GHG and of environmentally friendly production methods;

45. Calls on the Commission to revise its proposal for sustainability criteria for biofuels, establishing stricter requirements for climate and ecosystems benefits, also taking into account the effects of indirect land use change and development consequences for local communities; emphasises that sustainability criteria must not become new protectionist measures but should be designed in dialogue with developing countries;

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46. Believes that the proposed Global Energy Efficiency and Renewable Energy Fund is a remarkable instrument in this framework and that it could play an important role in energy-efficiency projects and in promoting renewable energy in developing countries;

47. Calls on the Commission to urgently develop a comprehensive agenda to reduce deforestation and forest degradation in developing countries, including promotion of Voluntary Partnership Agreements under the Forest Law Enforcement, Governance and Trade (FLEGT) programmes, and concrete proposals on funding mechanisms to present at the Conference of the Parties to the Climate Change Convention (COP 14) in Poznan in December 2008; reiterates the importance of such mechanisms providing compensation not only for avoided GHG emissions, but also for biodiversity and development benefits of forests;

48. Regrets that the Commission is yet to come forward with clear, rigorous proposals to ban the import of illegally logged timber and timber products into the EU market; calls on the Commission to present such proposals without further delay;

49. Instructs its President to forward this resolution to the Council and the Commission.

Governance and partnership at a national, regional and project basis in the field of regional policy

P6_TA(2008)0492

European Parliament resolution of 21 October 2008 on governance and partnership at national and regional levels and a basis for projects in the sphere of regional policy (2008/2064(INI))

(2010/C 15 E/02)

The European Parliament,

- having regard to the Treaty establishing the European Community and in particular Articles 158 and 159 thereof,
- having regard to the Treaty on the Functioning of the European Union and in particular Article 15 thereof,
- having regard to Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽¹⁾ (hereinafter the General Regulation on the Structural Funds) and in particular Article 11, entitled Partnership, thereof,
- having regard to the Territorial Agenda of the European Union, the Leipzig Charter on Sustainable European Cities, and the First Action Programme for the Implementation of the Territorial Agenda of the European Union,
- having regard to the study drawn up by Parliament's Policy Department on Structural and Cohesion Policies entitled 'Governance and partnership in regional policy',

⁽¹⁾ OJ L 210, 31.7.2006, p. 25.

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- having regard to the opinions of the Committee of the Regions (COTER-IV-17) and of the European Economic and Social Committee on governance and partnership (EESC 1177/2008),
 - having regard to the exploratory opinion of the European Economic and Social Committee entitled Towards balanced development of the urban environment: challenges and opportunities (EESC 737/2008),
 - having regard to the Commission's Practical guide to EU funding for research, development and innovation,
 - having regard to the second cycle of the Urbact programme (2007-2013), a European programme whose aim is to foster exchanges of experience between European towns and cities, and in particular the seven new thematic networks dealing with governance,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Regional Development and the opinion of the Committee on Budgetary Control (A6-0356/2008),
- A. whereas the interest and well-being of citizens lie at the centre of European, national and regional policies, and whereas an improved level of governance and partnership, aimed at establishing an improved level of coordination and cooperation between the various authorities, is to the benefit of all citizens of the Union,
- B. whereas the practical solutions which our fellow citizens expect to see as regards public services (such as public transport, drinking water, social housing and public education) can be achieved only by means of good governance, involving two complementary systems: firstly, the institutional system, which provides for the allocation of powers and budgets between the State and regional and local authorities and, secondly, the partnership system, which brings together all the public and private bodies concerned by a given topic in a given territory,
- C. whereas attention should be drawn to the definition of 'partnership' as contained in the General Regulation on the Structural Funds, pursuant to which each Member State shall organise
- 'a partnership with authorities and bodies such as:
- (a) the competent regional, local, urban and other public authorities,
 - (b) the economic and social partners,
 - (c) any other appropriate body representing civil society, environmental partners, non-governmental organisations and bodies responsible for promoting equality between men and women,'
- D. whereas partnership should take account of all relevant communities and groups, can bring benefit and added value to the implementation of cohesion policy through enhanced legitimacy, guaranteed transparency and better absorption of funds, and should also be assessed in terms of the social and civic value it represents,
- E. whereas the closest possible involvement of the various partners in the drafting of operational programmes will ensure the production of a document that takes full account of the specific features of a given territory and provides the best possible response to the requirements and challenges in that area,

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- F. whereas an enhanced partnership with universities and institutes of tertiary or technological education, as well as private sector involvement, can be beneficial to strategies within the framework of the Lisbon Agenda and EU policies dealing with research and innovation,
- G. whereas social capital in the form of active volunteering is positively linked to regional economic growth and is an important factor in reducing regional disparities,
- H. whereas the extensive participation of the partners mentioned in the General Regulation on the Structural Funds and closer cooperation among the bodies involved in implementing programmes and projects financed from the Structural Funds and the Cohesion Funds would serve to make cohesion policy more effective and to increase the leverage effect,
- I. whereas an integrated approach must not only take account of the economic, social and environmental aspects of territorial development, but must also serve to reconcile the interests of the various actors involved, in the light of a territory's specific characteristics, with a view to meeting local and regional challenges,
- J. whereas both better coordination of the relevant public policies, at all the administrative levels concerned, and effective governance are essential if the sustainable development of territories is to be moved forward,
- K. whereas the concept of an integrated approach is now regarded as a necessity, and whereas it is now time to put that concept into practice,
- L. whereas structural policies accounted for the second largest share of the European Union budget in the programming period 2000-2006 and are the major policies of the European Union in the 2007-2013 period,
- M. whereas arrangements should be made for more efficient cooperation and transparency for all among the various authorities and public and private bodies involved, without necessarily transferring legal powers and without creating new authorities, enabling each body to work more effectively as a result of that cooperation,
- N. whereas the involvement of regional and local authorities must be envisaged at the earliest possible stage of negotiations on Community legislation and, in particular, in the negotiations on the next package of cohesion policy rules,
- O. whereas applying the concept of 'population and labour catchment areas' involves taking account of the relevant basic territorial units when addressing issues of fundamental importance to people's daily lives, (transport, public services, quality of life, jobs and local economic activity, security, etc.),
- P. whereas effective governance can be facilitated through the use of proper spatial planning,
- Q. whereas the fact that the individuals involved in implementing cohesion policy have project management skills is a key factor in improving and facilitating governance,
- R. whereas the results of successful experiments involving new methods of governance and partnership should be drawn on in the future, including those which have already been successfully tested in European Fund programmes, such as the LEADER method and the global grant (pursuant to Articles 42 and 43 of the General Regulation on the Structural Funds),
- S. whereas adequate communication structures and strategies at all policy, implementation and evaluation stages, designed in close cooperation with regional and local authorities, by promoting the spread of information to all sections of society, foster transparency, inclusive participation and full ownership,

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Governance and Community funds

1. Calls on the Member States and regional and local authorities to fully exploit the potential of the various Community funds (Structural Funds, Community framework programme for research and development, and European Agricultural Fund for Rural Development,) whose purpose is to promote regional and urban development with the aim of facilitating integrated funding;
2. Calls on national, regional and local authorities to intensify their use of the integrated approach during the current programming period;
3. Proposes, in the context of future cohesion policy, that the integrated approach should be made compulsory; considers that the application of this principle must be undertaken within a specific timeframe;
4. Proposes, for reasons of simplification and effectiveness, that a study should be carried out into the feasibility of merging the various Community funds, in particular the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Agricultural Fund for Rural Development, under the future cohesion policy for the period after 2013;
5. Notes that transparent and clear procedures are factors of good governance and therefore calls on the Commission and the Member States, working together with regional and local authorities and taking due account of the suggestions of potential beneficiaries, to examine without delay — subject to a fixed timescale to be set by the Commission — how to simplify and rationalise procedures and how to divide more clearly responsibilities for implementing cohesion policy with a view to reducing the bureaucratic burden on the individuals and bodies involved;
6. Calls on the Commission to promote the use of Article 56 of the General Regulation on the Structural Funds, which allows for contributions in kind to European Union co-financed projects;

Governance and partnership

7. Calls on the Commission to draw up and submit to it an assessment of the implementation of the partnership principle by the Member States in the context of the drafting of the National Strategic Reference Frameworks and the operational programmes, identifying the factors behind successful and unsuccessful governance, and also to examine in particular what account has been taken of opinions and proposals put forward by the partners in drawing up the operational programmes;
8. Calls on the Commission to draw up a guide containing a clear definition and assessment criteria as well as setting out instruments, tools and good practices (among others for the selection of partners) designed to facilitate the implementation of effective partnerships in accordance with Article 11 of the General Regulation on the Structural Funds, in keeping with the institutional framework specific to each Member State;
9. Notes that the partnership process can work only with partners which have the necessary capabilities and resources, and calls on the managing authorities to contribute to the strengthening of those capabilities by providing the partners, at an early stage and in accordance with Article 11 of the General Regulation on Structural Funds with the same information as is available to the authorities and by allocating appropriate financial resources to technical assistance for implementing the partnership principle, for example training, building up social capital, and making their partnership activities more 'professional';
10. Regrets that for the current programming period no quantifiable minimum amount of funding from the Structural Funds has been earmarked for implementation of the partnership principle; calls on the Council and the Commission to earmark in future legislation a quantifiable minimum amount of funding from the Structural Funds for implementation of the partnership principle;

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11. Notes the important role that volunteering plays in the partnership process and calls on the Member States and the Commission to support and facilitate the valuable work done by volunteers in contributing to this process and the stronger engagement of people and grassroots organisations in local democracy in a multi-level partnership;
12. Draws attention to the requirement to consult the general public and organisations representing civil society on the issue of programming with the aim of reflecting their proposals, and stresses that the participation of civil society helps to legitimise the decision-making process; notes that the efforts to involve the public in the preparations for the operational programmes for the period 2007-2013 were not as successful as hoped for; calls on the Commission, therefore, to identify good practices and to facilitate their application with a view to improving public involvement ahead of the next programming period;
13. Calls on the managing authorities to inform partners of how and at what level suggestions made by them at the various stages in the Structural Fund programming process are taken into account;
14. Recalls that partnership can contribute to effectiveness, efficiency, legitimacy and transparency in all the phases of Structural Fund programming and implementation and can increase commitment to and ownership of programme outputs; calls, therefore, on the Member States and managing authorities to involve the partners more closely at an early stage in all the phases of Structural Fund programming and implementation, with a view to making better use of their experience and knowledge;
15. Urges the Member States to ensure closer cooperation between public and private sectors through the establishment of public-private partnerships to implement structural funding, given that the potential benefits deriving from public-private partnerships are still largely underexploited;
16. Notes that new Member States have not fully complied with the partnership principle and that its introduction could therefore gradually be reinforced;
17. Requests that the next Structural Funds regulations contain specific provisions to make the application of the partnership principle legally binding, with clearly verifiable criteria;

Multi-level governance

18. Calls on the Member States to develop as quickly as possible the practical measures set out in the First Action Programme for the implementation of the Territorial Agenda of the European Union, in particular under heading 3.1, with a view to strengthening multi-level governance;
19. Proposes that governance should be included as a criterion under heading 4.1 of the First Action Programme for the implementation of the Territorial Agenda of the European Union, which calls on the European Spatial Planning Observation Network (ESPON) to develop new territorial cohesion indicators;
20. Takes the view that successful multi-level governance needs to be based on a 'bottom-up' approach; calls in this context upon local and regional authorities to investigate means to intensify their cooperation and contact with national governments as well as with the Commission, and recommends that regular meetings take place between officials from national, regional and local authorities;
21. Urges the Member States to decentralise the implementation of cohesion policy, so that the system of multi-level governance can work effectively and in keeping with the principles of partnership and subsidiarity, and calls on them to take the decentralisation measures required, at both legislative and budgetary levels;

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22. Emphasises that regional and local administrative capacity as well as its stability and continuity constitute a precondition for the efficient absorption of funds and their impact maximisation; calls on Member States to ensure adequate administrative structures and human capital in terms of recruitment, remuneration, training, resources, procedures, transparency and accessibility;

23. Calls for the national courts of auditors to play a stronger role in the control mechanisms, to ensure that funds are appropriately spent, thus acquitting themselves of their responsibilities and playing a more active part;

24. Urges the Member States to delegate responsibility for managing the Structural Funds to regional and local authorities on the basis of agreed terms and criteria which must be met by the authorities in question, with a view to involving them more closely and by means of formal coordination structures in the work of drafting and implementing the operational programmes, or, at the very least, to award them global grants; recommends that full use be made of the possibilities offered by these grants to enable regional and local authorities to play a full role in the multi-level governance arrangements;

Governance and the territorial dimension

25. Calls on those Member States which have not yet amended their national law to make provision for the establishment of the European Grouping for Territorial Cooperation (EGTC) to do so as soon as possible;

26. Calls on the Commission, while examining which NUTS level is most pertinent, to identify the area in which, on the basis of experience gained, an integrated policy for the development of territories might best be implemented, forming the basis of the following projects in particular:

- population and labour catchment areas, i.e. towns, suburban areas and the adjacent rural areas;
- territories which justify specific thematic approaches, such as mountain ranges, large wooded areas, national parks, river basins, coastal areas, island regions and environmentally degraded areas, to develop place-based approaches;

Governance and the European Union institutions

27. Welcomes the greater recognition of the role of regional and local authorities and the strengthening of the subsidiarity principle in the Lisbon Treaty; calls on the European institutions to start considering as of now the practical implications of such developments;

28. Notes that within the Council there is no department which has specific responsibility for the strategic monitoring of cohesion policy, which accounts for the largest volume of appropriations in the European Union budget, and calls on the Member States to schedule specific Council sessions involving the ministers responsible for cohesion policy;

29. Welcomes the establishment within the Commission of interdepartmental groups such as that on 'urban policy' and that on 'the integrated approach'; calls on the Commission to develop this cross-departmental approach further and to keep Parliament and the Committee of the Regions regularly informed of the outcome of the work of the groups in question;

30. Undertakes to consider changes to its Rules of Procedure to make provision, by means of temporary working groups or other bodies, for cross-departmental work on topics involving several parliamentary committees, in particular in the context of the proceedings of the Working Party on Parliamentary Reform;

31. Calls on the Committee of the Regions to step up its efforts to develop the practice of governance, in both quantitative and qualitative terms;

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Tools for promoting successful governance and partnership

32. Calls on the Member States and the Commission to support the development of governance and partnership training measures, involving all public and private education and training organisations, with a view to addressing the major challenges facing the Community;
33. Calls on the Member States to make proper use of spatial planning in order to assist in the facilitation of balanced regional development;
34. Calls on elected representatives and national, regional and local civil servants and partners involved in managing operational programmes in the context of cohesion policy in accordance with Article 11 of the General Regulation on Structural Funds, to use the financial resources available under these programmes for technical assistance to acquire training in the forms of governance associated with these programmes, in particular project management; also calls on the Commission to request Member States to give detailed accounts of the manner in which their specific financial programmes are used;
35. Takes the view that the European networks for exchanges of good practice should broaden their work in the area of governance and partnership, put more emphasis on political and strategic lessons learnt from previous programme cycles and should ensure public access to exchanges of experiences in all European Union languages and thus help to ensure that good practices are in fact implemented;
36. Welcomes the launching by the French Presidency of the European Union of a project to draw up a set of benchmarks for urban sustainability and solidarity and calls for the governance and partnership dimension to be included in those benchmarks;
37. Proposes the creation of a programme, similar to the Erasmus programme, for regional and local elected officials;

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38. Instructs its President to forward this resolution to the Council and the Commission.

Better lawmaking 2006 pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality

P6_TA(2008)0493

European Parliament resolution of 21 October 2008 on 'Better lawmaking 2006' pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality (2008/2045(INI))

(2010/C 15 E/03)

The European Parliament,

- having regard to its resolution of 4 September 2007 on better lawmaking 2005: application of the principles of subsidiarity and proportionality — 13th report ⁽¹⁾,
- having regard to its resolution of 4 September 2007 on better regulation in the European Union ⁽²⁾,
- having regard to its resolution of 4 September 2007 on the strategy for the simplification of the regulatory environment ⁽³⁾,

⁽¹⁾ OJ C 187 E, 24.7.2008, p. 67.

⁽²⁾ OJ C 187 E, 24.7.2008, p. 60.

⁽³⁾ OJ C 187 E, 24.7.2008, p. 72.

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- having regard to its resolution of 4 September 2007 on institutional and legal implications of the use of ‘soft law’ instruments ⁽¹⁾,
 - having regard to the Commission report entitled “Better lawmaking 2006’ pursuant to Article 9 of the Protocol on the application of the principles of subsidiarity and proportionality (14th report)’ (COM(2007)0286),
 - having regard to the Commission communication entitled ‘Second strategic review of Better Regulation in the European Union’ (COM(2008)0032),
 - having regard to the Commission working document entitled ‘Second progress report on the strategy for simplifying the regulatory environment’ (COM(2008)0033),
 - having regard to the Commission communication entitled ‘2008 Fast Track Actions to reduce administrative burdens in the European Union’ (COM(2008)0141),
 - having regard to the Commission working document entitled ‘Reducing administrative burdens in the European Union — 2007 progress report and 2008 outlook’ (COM(2008)0035),
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Economic and Monetary Affairs (A6-0355/2008),
- A. whereas the European Union’s regulatory environment should be informed by criteria of clarity and effectiveness,
- B. whereas improving regulatory procedures could help to achieve the objectives of the European Union,
- C. whereas the principles of subsidiarity and proportionality are key principles of primary law and, in areas where the Community does not have sole legislative power, must be respected at all costs,
- D. whereas the correct application of the principles of subsidiarity and proportionality makes a fundamental contribution to consolidating the authority and effectiveness of Community legislation and to ensuring that decisions are taken at a level closer to citizens, thereby ultimately securing greater public acceptance of the European Union, and whereas these principles are essential to legitimising the appropriateness and scope of Community action, inasmuch as they enable the Member States to exercise their own legislative powers in a spirit of collaboration between the various levels of government, thereby increasing legal certainty,
- E. whereas at present Community law-making is subject to the application of the principles of subsidiarity and proportionality, which require the establishment of procedures for coordination with the national legislative, executive and judicial authorities in order to guarantee that European Union action is both necessary and lawful,
- F. whereas the Commission highlights a range of significant factors involved in improving European Union regulation, such as impact assessment, reducing administrative costs and simplifying, improving and updating existing regulations,
- G. whereas the Commission attaches importance in this respect to establishing an open dialogue with both sides of industry and with national legislators,

⁽¹⁾ OJ C 187 E, 24.7.2008, p. 75.

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- H. whereas in its 'First progress report on the strategy for the simplification of the regulatory environment' (COM(2006)0690), the Commission announced approximately 50 codification initiatives for 2006, but only 36 were in fact forwarded to Parliament, and, while 200 codification initiatives were announced for 2007, only 21 were submitted to the legislator,
- I. whereas, in its Simplification Rolling Programme annexed to its abovementioned 'Second progress report on the strategy for simplifying the regulatory environment', the Commission treats the revision and the recasting of regulations current in various areas (energy efficiency of buildings, civil aviation, etc.) as being equivalent,
- J. whereas the Commission has undertaken to submit an action programme intended to reduce the administrative burdens on companies in the European Union by 25 % by 2012 and whereas, to that end, it has put forward a series of fast-track actions related to various legislative sectors,
1. Supports the Commission's objective of improving the quality of Community legislation and reducing the legislative burden, including abolishing legislation that is unnecessary, hampers growth and inhibits innovation; stresses that even greater efforts are required in a number of areas to ensure that the maximum economic benefit is derived from legislation relating to the internal market;
 2. Promotes principles-based legislation and the focus on quality instead of quantity; sees the 'better regulation' debate as a good opportunity to reflect on legislation as a process designed to achieve clearly defined policy goals by improving Community legislation so as to favour growth and jobs and by committing all stakeholders to, and involving them in, all phases of the process from preparation to enforcement;
 3. Emphasises, in the context of the efforts to bring about better lawmaking, the importance of the principles of subsidiarity and proportionality both in reducing unnecessary bureaucratic burdens on Member States and those affected by legislation and in securing broader acceptance among EU citizens for those measures which, in keeping with both principles, can only be taken at Community level;
 4. Supports the Commission's efforts to bring about the simplification of the Community *acquis*;
 5. Welcomes the Commission's improved procedures for consulting interested parties when drawing up its legislative proposals, and notes the generally positive reaction of those consulted when evaluating the way in which the Commission encouraged their involvement;
 6. Deplores the fact that, despite having improved its procedures, the Commission continues to draw up separate documents relating to simplification and 'better lawmaking' that contain non-identical lists of simplification strategies, which makes it difficult to get a complete overview of the strategy; stresses that the proliferation of such documents must be avoided; calls on the Commission to draw up a single annual document; emphasises that political assessments and good cooperation must take place at European Union level, especially through efforts by Parliament, the Council and the Commission;
 7. Believes that objective impact assessments are an important tool for assessing Commission proposals and calls, therefore, for external, independent scrutiny of the conduct of impact assessments;
 8. Considers that consultations and impact assessments are essential to better drafted Community legislation and that they should neither increase bureaucracy nor present bureaucratic stumbling-blocks preventing the Commission from acting but should instead help to establish a sound legal framework that is conducive to growth in the European Union;
 9. Stresses the need for cost-benefit analyses that reflect the regulatory cost structures when directives are transposed into national legislation and that change the regulatory framework within which companies and individuals operate; is aware, however, that such cost-benefit analyses are no substitute for the political debate about the pros and cons of particular legislation;

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10. Is of the opinion that, when proposing their amendments, Parliament and the Council should take into account both the Commission's and their own impact assessments in order to improve the quality of the drafting of legislation;
11. Takes the view, further, that objective impact assessments must be partly based on early and broad consultation of interested parties; calls on the Commission to incorporate in its impact assessments a comprehensive range of scenarios and policy options (including, where necessary, the 'do nothing' option) as the basis for cost-effective and sustainable solutions;
12. Trusts that the inclusion of a forecast of administrative costs in the assessments will improve the quality of the latter;
13. Stresses the importance of the political assessment carried out at European Union level by bodies representing citizens, such as Parliament, or bodies representing local and social bodies such as the Committee of the Regions and the European Economic and Social Committee respectively;
14. Voices doubts as to the appropriateness of encouraging self-regulation and co-regulation, which could ultimately turn into a form of 'legislative abstinence' that would favour only pressure groups and powerful players on the economic stage; for that reason, supports the Commission's conclusion that regulations continue to be the simplest way of achieving the European Union's objectives and providing both businesses and citizens with legal certainty; calls on the Commission to develop a more consistent approach in this connection;
15. Underlines that non-legislative measures should respect the balance of power and the respective roles of the institutions; wants to make a wise and coherent contribution to such measures, building on experience; stresses the need for political endorsement of such innovative measures;
16. Believes that the European Union's formal regulatory system needs to be strengthened, in the terms set out in the Treaties, and that short cuts, even by means of informal legislation which has no binding force, should be avoided;
17. Welcomes the fact that the Commission has taken steps to put an end to the delay in the translation into the new official languages of the European Union of the texts being codified; deplors the fact that, despite approximately 50 codification initiatives having been announced for 2006 and approximately 200 for 2007, the Commission has forwarded only 36 and 21 proposals respectively to Parliament;
18. Urges the Commission to abide by the published codification and recasting lists by submitting to the legislator, as far as possible, all the initiatives announced, and explaining the reasons for the absence of those which are omitted; stresses that Parliament's goodwill has been shown by the reform of Rules 80 and 80a of its Rules of Procedure, which allows these simplification initiatives to be adopted more quickly and more simply;
19. Reminds the Commission likewise that codification and recasting initiatives are adopted by Parliament within reasonable deadlines and that, in so far as there may be longer deadlines with regard to other simplification initiatives, this is due to the fact that these provisions are ordinary legislative proposals, which as such are subject to the normal adoption procedure and the usual deadlines;
20. Confirms its wish that the Commission adopt recasting as an ordinary legislative technique, even when the 'revision' of the current text is being proposed, so as to make it possible to have — for each initiative — a complete overview of the text, including the specific amendments, clearly indicating which parts are new and which parts remain unchanged;

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21. Calls on the Commission, likewise, to bear in mind that, when recasting is not possible, the ordinary legislative technique should make provision for codification, within not more than six months, of the successive amendments to the legislative act in question; believes that, in accordance with the Interinstitutional Agreement on better law-making ⁽¹⁾, specific structures could be established in conjunction with the Council and the Commission, making provision for the adequate involvement of the interested parties, in order to encourage simplification;

22. Recalls that, since ambiguous and ineffective soft-law instruments can have negative effects on the development of European Union law and on the balance between the institutions, they should be used only very cautiously — where provided for in the Treaties and in a manner strictly consistent with the allocation of competences under primary law — and that, in all cases, legal certainty should be guaranteed;

23. Welcomes the fact that the Commission has decided to forward its new proposals and consultation documents to the national parliaments directly, in order to seek their reactions upstream of the Community law-making process, thus anticipating the provisions of the Lisbon Treaty; fully endorses the importance of collaboration of this kind when it comes to improving the quality and application of Community legislation, in particular the principles of subsidiarity and proportionality;

24. Is of the opinion that transposition should be seriously and proactively monitored to avoid diverging interpretations and gold-plating; wants the Commission to play an active role in transposition, together with supervisors and expert groups, at both Community and national level, since early analysis may prevent delays and unnecessary burdens on undertakings; calls on the Commission to investigate what further measures might be taken to prevent gold-plating, including the introduction of a right of direct action for citizens; calls for 'follow-up impact assessments' analysing how decisions are in fact implemented at national and local level; supports the increasingly appropriate use of regulations; suggests, once again, that Parliament establish a proper transposition-monitoring procedure in close cooperation with its national partners;

25. Believes that, with a view to more efficient relations with the national parliaments, there is a need for a common approach to the conditions established by the subsidiarity and proportionality principles; fully endorses the Commission's initiative on including a standardised range of questions in this connection with a view to drawing up the explanatory statements accompanying Commission proposals, as set out in Annex 3 to Commission Working Document SEC(2007)0737;

26. Welcomes the fact that the Commission has announced a review of the Community *acquis* on company, accounting and auditing law, and trusts that specific proposals in this regard will be forthcoming as soon as possible;

27. Reiterates the need to reduce the unnecessary administrative burdens which companies have to bear in order to meet the information obligations laid down both by European legislation and national provisions for its application; emphasises that the Commission's target of reducing administrative burdens by 25 % by 2012 should be a net target, meaning that reductions in certain areas must not be nullified by new administrative burdens imposed elsewhere; supports the increased use of information and communication technology in this area; calls on the Commission to assess, and where possible reduce, the general administrative burdens borne by all interested parties, even if they are not companies;

28. Underlines that further efforts to achieve simplification are also required in the Commission's interaction with citizens, e.g. in the areas of procurement, financial services, research programmes, State aid rules and applications for Community funding;

⁽¹⁾ OJ C 321, 31.12.2003, p. 1.

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29. Recalls the importance of the judicious use of 'review clauses' to ensure that legislation remains relevant;

30. Confirms that it is ready to maintain and upgrade its collaboration with the Council and the Commission in order to meet citizens' and companies' expectations concerning the simplification of Community legislation, particularly with regard to fast-track action proposals designed to reduce administrative burdens; stresses that, in any case, the process of simplifying decision-making procedures in order to shorten deadlines needs to respect the requirements of the procedures laid down in the Treaties;

31. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

24th Annual Report from the Commission on monitoring the application of Community law

P6_TA(2008)0494

European Parliament resolution of 21 October 2008 on monitoring the application of Community law — 24th annual report from the Commission (2008/2046(INI))

(2010/C 15 E/04)

The European Parliament,

- having regard to the 24th annual report of the Commission of 17 July 2007 on monitoring the application of Community law (2006) (COM(2007)0398),
- having regard to Commission staff working documents SEC(2007)0975 and SEC(2007)0976,
- having regard to the communication from the Commission of 5 September 2007 entitled 'A Europe of results — Applying Community law' (COM(2007)0502),
- having regard to Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes ⁽¹⁾,
- having regard to Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and ETUC ⁽²⁾,
- having regard to Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes ⁽³⁾,
- having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ⁽⁴⁾,
- having regard to Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ⁽⁵⁾,

⁽¹⁾ OJ L 225, 12.8.1986, p. 40.

⁽²⁾ OJ L 145, 19.6.1996, p. 4.

⁽³⁾ OJ L 46, 17.2.1997, p. 20.

⁽⁴⁾ OJ L 180, 19.7.2000, p. 22.

⁽⁵⁾ OJ L 303, 2.12.2000, p. 16.

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- having regard to Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions ⁽¹⁾,
 - having regard to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States ⁽²⁾,
 - having regard to its resolution of 21 February 2008 on the Commission's 23rd Annual report on monitoring the application of Community law (2005) ⁽³⁾,
 - having regard to Rules 45 and 112(2) of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0363/2008),
- A. whereas the effectiveness of EU policies is largely determined by their implementation at national, regional and local levels; whereas compliance with Community legislation by the Member States must be rigorously controlled and monitored in order to ensure that it has the desired positive effects on the daily lives of citizens,
- B. whereas proper monitoring of the application of Community law involves not merely assessing transposition in quantitative terms but also evaluating the quality of transposition and of the practices adopted in applying Community law in the Member States,
- C. whereas after rising steadily in previous years to reach a total of 2 653 detected infringements in 2005, the total number of infringement proceedings initiated by the Commission fell slightly — to 2 518 — in 2006; whereas the accession of 10 new Member States seems not to have had any impact on the number of registered infringements,
- D. whereas, in respect of the EU-25, the number of proceedings initiated in 2006 for failure to notify transposing measures fell by 16 % with respect to 2005, from 1 079 to 904 cases, owing to a reduction in the number of directives with a deadline for the year from 123 in 2005 to 108 in 2006 and to prompter notification by Member States,
- E. whereas the statistics for 2006 quoted by the Commission show that the courts in many Member States are reluctant to make use of the preliminary rulings procedure provided for in Article 234 of the EC Treaty; whereas this may be due to a still inadequate grasp of Community law,
- F. whereas the principle of equality before the law requires that Union citizens should enjoy equality in respect not only of European Union legislation but also of the national legislation transposing it; whereas it would therefore be highly expedient if, on expiry of the deadlines for transposing the European legislation, the Member States not only included an explicit reference in the transposition provisions but also indicated in their Official Journals which national provisions are intended to apply the legislation in question and which national authorities are responsible for their implementation,
- G. whereas citizens' complaints are not merely symbolic in building a 'people's Europe' but also constitute a measurable and efficient means of monitoring the application of Community law,
- H. whereas petitions to Parliament are a valuable means of detecting infringements of Community law in Member States, and whereas over recent years the number of petitions has increased significantly, with some 1 000 being submitted in 2006,

⁽¹⁾ OJ L 269, 5.10.2002, p. 15.

⁽²⁾ OJ L 158, 30.4.2004, p. 77.

⁽³⁾ Texts Adopted, P6_TA(2008)0060.

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- I. whereas the issues most commonly raised in petitions concern the recognition of educational and professional qualifications, taxation, the right to freedom of movement within the territory of the Member States and discrimination-related matters,
- J. whereas in 2006 the number of complaints lodged with the European Ombudsman remained stable at 3 830; whereas 75 % of the complaints received fell outside the Ombudsman's sphere of competence, being matters for the national or regional authorities in Member States, and whereas, as in previous years, 70 % of the inquiries opened by the Ombudsman concerned the Commission,
- K. whereas the principle of non-discrimination is one of the cornerstones of the European integration process and is directly linked to the operation of the internal market, with particular reference to the principle of the free movement of persons, services, goods and capital, and whereas it guarantees equal rights and opportunities for all Union citizens,
- L. whereas citizenship of the Union, as established in the Maastricht Treaty, guarantees citizens the right to move freely within the territory of the Member States, together with a number of political rights, and whereas the EU institutions stand as guarantors of those rights,
- M. whereas the deadline for transposing Directive 2004/38/EC, concerning the right of all citizens to move and reside freely within the territory of the European Union, was fixed at 30 April 2006,
- N. whereas students continue to experience difficulties in enjoying free movement or gaining access to higher education in other Member States of the European Union, such as administrative barriers or quota systems (which discriminate against foreign students wishing to register at universities) and whereas the EU can intervene only in the event of discrimination based on nationality,
- O. whereas Article 39 of the EC Treaty stipulates that the free movement of workers entails the abolition of any discrimination against workers from other Member States as regards employment, remuneration and other conditions of work and employment, and whereas secondary Community law includes a series of provisions designed to combat this type of discrimination effectively,
- P. whereas there is a direct link between the degree to which a Member State implements Community law, including in the field of environmental protection, and that Member State's ability to take up funding available for essential investment, infrastructure and modernisation projects,

Annual report for 2006 and action taken on Parliament's resolution of 21 February 2008

1. Welcomes the abovementioned Commission Communication of 5 September 2007 and the Commission's undertaking to improve current working methods with a view to prioritising and accelerating the handling and management of existing proceedings; points out, none the less, that the Commission has not yet responded to or acted upon Parliament's abovementioned resolution of 21 February 2008, in which it calls on the Commission to provide specific information on various aspects of the implementation of Community law, with particular reference to the development of the abovementioned new working method;
2. Is deeply concerned that, under the new working method, which provides for complaints received by the Commission to be referred back to the Member State concerned (which is the party responsible for the incorrect application of Community law in the first place), the Commission may be failing to meet its institutional responsibility for ensuring the application of Community law as 'guardian of the treaties', in accordance with Article 211 of the EC Treaty; notes that the Commission is frequently the only remaining body to which citizens can turn to complain about the failure to apply Community law; urges the Commission to submit to Parliament a first report by November 2008 on the procedures followed and results obtained during the first six months of the pilot project which commenced on 15 April 2008 and which involves 15 Member States;

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3. Stresses that, under Article 211 of the EC Treaty, the Commission is the institution responsible for ensuring that the provisions of the Treaty and the measures taken by the institutions pursuant thereto are applied, and, under Article 226, is empowered to take action against any Member State failing to fulfil a Treaty obligation;
4. Urges the Commission to apply across the board the principle whereby any correspondence which may contain a complaint about a genuine breach of Community law must be registered as a complaint unless it is covered by the exceptional circumstances referred to in point 3 of the annex to the Commission communication of 20 March 2002 on 'relations with the complainant in respect of infringements of Community law' (COM(2002)0141); calls on the Commission to provide Parliament with details of how this principle is observed, including in cases where the new method is applied; urges the Commission to inform and consult Parliament on any changes to the exceptional criteria for failure to register complaints;
5. Notes that the main problems with the infringement procedure are its length (20.5 months on average from registration of the case within the specified time-limit to the sending of the letter of referral to the Court of Justice under Article 226 of the EC Treaty) and a limited use of Article 228; calls on the Commission to make every effort to shorten the relatively long delay in dealing with complaints or petitions and to find practical solutions to the problems presented by deciding, upon receipt of the case, whether alternative methods such as Solvit, which is still not promoted enough, are more appropriate;
6. Observes a significant increase in infringement cases with continued failure to comply with the Court's judgment reviewed in 2006 and highlights two cases in which penalty payments were imposed on Member States; calls on the Commission to apply Article 228 of the EC Treaty with greater firmness in order to ensure due compliance with judgments of the Court of Justice;
7. Calls on the Commission, in connection with the continuing problem of Member States failing to meet deadlines for the transposition of directives, to supply a list of the directives showing the lowest rate of implementation, together with details of the likely reasons therefor;
8. Commends the efforts made by some Commission Directorates-General, particularly DG Environment, to improve the conformity checks on the relevant directives, but is not satisfied with the Commission's reply regarding the confidentiality of the conformity studies; calls once more on the Commission to publish on its website the studies requested by the various Directorates-General on the evaluation of the conformity of national implementation measures with Community legislation;
9. Draws attention to the insufficient degree of cooperation with the Court of Justice by the national courts in most Member States, which remain reluctant to apply the principle of the primacy of Community law; points, furthermore, to the extremely important role played by the preliminary ruling procedure in the proper application of Community law;
10. Supports, in this connection, the Commission's efforts to determine the areas in which additional training in Community law could be useful for national judges, legal professionals and civil servants;

Interinstitutional cooperation

11. Believes agreements on monitoring the application of Community law and close cooperation between the Commission, the Council, the European Ombudsman and the relevant committees of the European Parliament to be essential in order to ensure effective action in all cases where a petitioner has justifiably complained of an infringement of Community law;
12. Points out that, although few of them (four in 2006) bring to light genuine infringements of Community law, petitions are an irreplaceable source of information on the fundamental requirements of Europe's citizens and should be used as a pointer by the Commission in connection with legislative measures;

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13. Stresses the need for better provision of information to citizens with a view to directing anyone wishing to submit a complaint towards the body best qualified to deal with the matter at either national or Community level; believes that a culture of good administration and service should be fostered within the EU institutions with a view to ensuring that citizens are dealt with properly and are able fully to enjoy their rights;

14. Suggests that the Commission should continue to give consideration to the feasibility of using its Representations in Member States to observe and monitor implementation on the ground;

15. Emphasises the need to give consideration to the previously canvassed idea of a common access point for all citizens' complaints and problems relating to the monitoring of the application of Community law, given that the citizen is currently faced with a plethora of options (petitions, complaints, the Ombudsman, Solvit, etc.) and therefore some form of central signposting system could provide more targeted and timely results;

16. Welcomes the fact that the Commission's annual reports on the application of Community law are accompanied by annexes expanding on the information set out in the report and supplying essential statistics;

17. Recognises that Parliament's standing committees should play a more active role in monitoring the application of Community law; is convinced that the committees should be given adequate administrative support to enable them to play this role effectively; calls on the Working Party on Parliamentary Reform, the Committee on Budgets and other relevant Parliament bodies to examine the feasibility of a special task force within each committee's secretariat so as to ensure the continuing and effective monitoring of the application of Community law;

Cooperation between the European Parliament and the national parliaments

18. Calls for closer cooperation between the European Parliament and national parliaments with a view to promoting and increasing effective monitoring of the application of Community law at national, regional and local levels; considers that national parliaments have a valuable role to play in monitoring the application of Community law, thus helping to enhance the democratic legitimacy of the European Union and bring it closer to the people;

19. Points out that, under the protocol on the role of the national parliaments in the European Union annexed to the Treaty of Amsterdam, policies concerning the area of freedom, security and justice should entail special involvement by the national parliaments and the Conference of European Affairs Committees (COSAC); considers that this involvement should take place during both the decision-making phase and the implementation of European legislation to enable European and national legislators to adopt amendments and revisions which become necessary in sectors which are and will remain subject to shared competence; therefore invites the competent parliamentary committees at national and European level to establish permanent contacts on individual pieces of legislation, pooling all useful information in the interests of a more transparent and efficient legislative process at European and national level; welcomes the holding of special meetings between European legislators, such as the one recently held on 6 April 2008 with national parliaments to review the framework decision on combating terrorism, during which it was possible to assess not only the problems of implementing European legislation in force but also the relevance of proposed amendments under consideration by the Council;

20. Points out that the Lisbon Treaty arrangements for monitoring compliance with the subsidiarity principle would give the national parliaments a substantially enhanced role in Community law-making;

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Combating discrimination in the European Union

21. Points out that the concept of citizenship significantly broadens the scope of the principle of non-discrimination;
22. Notes the recent increase in judgments of the Court of Justice based on the concept of EU citizenship and concerning the right to move freely, under which a Member State may not treat any of its nationals who have taken advantage of their right to move and reside in another Member State less favourably than those who have not;
23. Calls on the Member States to respect the rights deriving from EU citizenship, including the right to vote and stand as a candidate in elections to the European Parliament, which is of particular importance in the run-up to the 2009 elections;
24. Notes that Parliament has received petitions complaining of infringements of Directive 2004/38/EC by some Member States; draws attention to the fact that that directive is of fundamental importance to ensuring that EU citizens may move freely within the territory of the Member States; points out that the Commission is to submit a report in the second half of 2008 on implementation of the directive;
25. Calls on the Commission carefully to monitor the transposition of Directives 2000/43/EC and 2000/78/EC and whether the transposing legislation adopted by Member States is in keeping with the provisions of those directives, as well as to continue to put pressure on the Member States, by way of infringement and non-compliance proceedings, to meet their obligation fully to transpose the directives as soon as possible; believes that Parliament's competent committee should play a role in the ongoing monitoring of Member States' obligations under those directives;
26. Welcomes the Commission's adoption on 2 July 2008, as provided for in the annual policy strategy for 2008, of the proposal (COM(2008)0426) for a horizontal directive implementing the principle of equal treatment outside the scope of employment and ensuring equal access to goods, services, housing, education, social protection and social advantages, and takes the view that this constitutes an important addition to the current anti-discrimination package;
27. Calls on the Commission to conduct a thorough analysis of cases where Member States apply non-nationality-based restrictions on access to education by students from other countries, with a view to ensuring that students are able to move freely and are afforded equal treatment within the higher education systems of those Member States;
28. Calls in particular on the Member States most eligible for structural funding under the multiannual financial framework for the period 2007-2013 swiftly to bring their national law properly into line with EU standards, particularly in the field of environmental protection, and to establish tendering procedures that are transparent to citizens, with a view to making effective use of available structural funding and boosting social and economic development at regional level;

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29. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the European Ombudsman and the governments and parliaments of the Member States.
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Institutional aspects of Regulatory Agencies

P6_TA(2008)0495

European Parliament resolution of 21 October 2008 on a strategy for the future settlement of the institutional aspects of Regulatory Agencies (2008/2103(INI))

(2010/C 15 E/05)

The European Parliament,

- having regard to the Commission communication of 11 March 2008 entitled 'European Agencies — The way forward' (COM(2008)0135),
 - having regard to its resolution of 13 January 2004 on the Communication from the Commission: 'The operating framework for the European Regulatory Agencies' ⁽¹⁾,
 - having regard to the draft interinstitutional agreement of 25 February 2005 on the operating framework for the European regulatory agencies (COM(2005)0059),
 - having regard to the oral question with debate submitted jointly to the Council by the Committee on Constitutional Affairs and the Committee on Budgets, and to the answer given by the Council in plenary on 15 November 2005 (O-0093/05),
 - having regard to its resolution of 1 December 2005 on the draft interinstitutional agreement presented by the Commission on the operating framework for the European regulatory agencies ⁽²⁾,
 - having regard to the decision of the Conference of Presidents of 17 April 2008,
 - having regard to the letter of 7 May 2008 from the President of the Commission to the President of the European Parliament and to the President-in-Office of the Council on setting up an interinstitutional working group at political level,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Budgets, the Committee on Budgetary Control, the Committee on Economic and Monetary Affairs and the Committee on Industry, Research and Energy (A6-0354/2008),
- A. whereas the efforts of Parliament and the Commission to establish a legally binding framework for the operation of the European regulatory agencies have proved fruitless,
- B. whereas no substantial progress has been made on the draft interinstitutional agreement of 2005 owing to the Council's institutional and political opposition, and whereas the Commission decided to withdraw the proposal for an interinstitutional agreement and to replace it with an invitation to take part in an interinstitutional dialogue, which will result in a common approach,
- C. whereas, although at first sight the regulatory agencies appear to be 'micro-institutions', they nevertheless have a 'macro-impact' at the level of European governance,
- D. whereas there is still a need to define at least the fundamental structural characteristics of the regulatory agencies, in so far as they have become an accepted para-institutional component of the European Union,

⁽¹⁾ OJ C 92 E, 16.4.2004, p. 119.

⁽²⁾ OJ C 285 E, 22.11.2006, p. 123.

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- E. whereas the Commission proposes the setting-up of an interinstitutional working group to draw up a common framework for the regulatory agencies and to define the competence of each of the institutions of the European Union vis-à-vis those agencies,
- F. whereas the Commission is to carry out a horizontal evaluation of the regulatory agencies by 2009-2010 and is to submit a report on the conclusions of that evaluation as soon as possible to Parliament and the Council,
- G. whereas the Commission's decision not to propose setting up any new agencies until the interinstitutional working group has completed its work is to be welcomed,
- H. whereas the Commission should not depart from the guiding principles of the draft interinstitutional agreement of 2005 concerning amendments to the basic instruments governing the existing regulatory agencies, so that they are consistent with the new approach,
- I. whereas there is already a common regulatory framework ⁽¹⁾ for executive agencies which are entrusted with the management of Community programmes for a specific period of time,

General considerations

1. Considers that the Commission's proposal is a commendable initiative and is prepared to take part in the proceedings of the interinstitutional working group through its representatives, but considers that the 'common approach' falls short of its expectations of achieving an interinstitutional agreement; notes that this does not rule out the development of other forms of understanding as an outcome of the work of the working group;
2. Appeals to the Council, in its capacity also as one arm of the budgetary authority, to make a constructive contribution to the proceedings of this working group;
3. Calls on the Council and the Commission to draw up jointly with Parliament the work programme for the interinstitutional working group as soon as possible, so that it can begin its work in autumn 2008;
4. Considers that the work programme of the interinstitutional working group should, inter alia, encompass the following points:
 - a statement of the areas on which the horizontal evaluation to be carried out by the Commission by the end of 2009 is to focus,
 - the setting of objective criteria for assessing the need for the agencies, taking into account possible alternative solutions,
 - an assessment, regularly and in a coordinated and coherent manner, of the work and the performance of the agencies, including an external assessment, in particular by means of cost-benefit analyses,
 - an evaluation of whether the agency option is more cost-effective than having the relevant tasks performed by the Commission departments themselves,
 - an assessment of possible benefits lost through having certain activities performed by the regulatory agencies instead of by the Commission's departments,

⁽¹⁾ Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (OJ L 11, 16.1.2003, p. 1).

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- the taking of measures to increase the transparency of the agencies, in particular through approximation of their fundamental structural characteristics,
 - the setting of boundaries in relation to the independence and supervision of the agencies, particularly the nature and extent of the Commission's responsibility for their activities, taking account of the fact that the degree of accountability of the Commission cannot exceed the degree to which it exerts actual influence over the activities of the agencies as such,
 - the appointment of representatives to the supervisory bodies for the agencies from the Council and the Commission and the interviewing of candidates by the competent parliamentary committee,
 - the appointment of the executive bodies of the agencies, in particular their director, and defining the role of Parliament in this respect,
 - the need for a standard approach among the agencies with regard to the presentation of their activities during the financial year in question, and of their accounts and reports on budgetary and financial management,
 - a standard requirement for directors of all agencies to draw up and sign a declaration of assurance, including reservations where necessary,
 - a harmonised model applicable to all agencies and satellite bodies clearly distinguishing between:
 - an annual report intended for a general readership on the body's operations, work and achievements,
 - financial statements and a report on the implementation of the budget,
 - an activity report along the lines of the activity reports of the Directors-General of the Commission,
 - a declaration of assurance signed by the body's director, together with any reservations or observations which the director considers it appropriate to draw to the attention of the discharge authority,
 - definition of the principles for determining whether and to what extent fees and payments should be a source of funding for agencies,
 - provision of a rolling review of the need for existing agencies, and the establishment of criteria to determine when a regulatory agency has achieved its purpose and can be wound up;
5. Regrets the absence of a general strategy for the creation of EU agencies; notes that new agencies are being created on a case-by-case basis, leading to a non-transparent patchwork of regulatory agencies, executive agencies and other Community bodies each constituting a *sui generis* creation;
6. Notes the Commission's position that the setting-up of the regulatory agencies, which is sometimes carried out with the collaboration of Parliament, is an expression of cooperation between the Member States, and the functioning of such agencies consists in the interlinking and exercise of responsibilities, which, if conferred exclusively on the EU institutions, would give rise to objections concerning centralisation;
7. Calls on the Council and the Commission to work jointly with Parliament to produce a clear, common and coherent framework for the future position of the agencies in the scheme of EU governance;
8. 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;

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9. Believes that the priority of the common framework for interinstitutional understanding should be to rationalise the operation and maximise the added value of the regulatory agencies by creating greater transparency, visible democratic control and improved efficiency;
10. Considers it indispensable to adopt minimum common principles and rules concerning the structure, operation and control of all the regulatory agencies, irrespective of their nature;
11. 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;
12. Considers that the structural and operational diversity of the agencies raises serious questions concerning regulatory parameters, good governance and institutional relations in terms of centralisation and decentralisation;
13. Advocates that the principles of good administration must be ensured by a common approach regarding personnel selection processes, budgeting and resource administration, efficient management and performance evaluation;
14. Will examine whether the Commission's undertaking to defer any proposal to set up new regulatory agencies should also cover the two proposals currently in abeyance in the fields of energy and telecommunications;
15. Stresses the need to establish parliamentary control over the formation and operation of regulatory agencies, which should consist principally in:
- submission to Parliament of the annual report by the agencies themselves,
 - possibly inviting the director of each agency to appear before the competent parliamentary committee during the appointment process, and
 - Parliament granting discharge for the execution of the budgets of those agencies which receive Community funding;
16. Urges the Commission to submit the conclusions of the horizontal evaluation of the regulatory agencies promptly, before the end of the 2009-2010 period, so that the conclusions can be taken into account by the interinstitutional working group;
17. Asks the Commission to devise benchmarks in order to compare those results and to lay down clear rules for ending the mandate of agencies in the event of poor performance;
18. Calls on the President and the Conference of Presidents to give priority to the question of the composition of the working group proposed by the Commission, and considers it appropriate that Parliament be represented in that group by the chairs or rapporteurs of the Committee on Constitutional Affairs, the Committee on Budgets and two other committees with practical experience of oversight of the work of regulatory agencies;
19. Reiterates the call by both Parliament and the Commission in the draft interinstitutional agreement of 2005 to incorporate a decision on an agency's seat into the basic act;

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Budgetary considerations

20. Wishes to reiterate the importance of securing, on a systematic basis, at interinstitutional level the application of the procedure laid down in Point 47 of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management ⁽¹⁾ (IIA of 17 May 2006) and stresses the need to ensure appropriate follow-up of the Joint Statement of 13 July 2007 by the Parliament, the Council and the Commission on decentralised agencies;

21. Is convinced that a detailed procedure for the application of that provision is an absolute necessity; considers that such a procedure might provide a possible opportunity to house some of the important aspects of the blocked draft interinstitutional agreement of 2005, perhaps in combination with some adaptations of the Framework Financial Regulation for agencies ⁽²⁾;

22. Concludes that, if evaluation exercises indicate that cost-effectiveness and efficiency of decentralised administration are not guaranteed, the European Union should not shy away from reversing the current tendency for outsourcing Commission tasks and should establish clear rules for terminating the mandate of decentralised agencies;

23. Supports the Commission's intention not to propose any new decentralised agencies until the evaluation process is completed, especially against the background that margins in the current Multiannual Financial Framework would make it extremely difficult, for the time being, to finance any new Community body without serious re-programming;

24. Considers, from the budgetary point of view, the following items key issues for the agenda of the interinstitutional working group on the future of EU agencies:

Establishment of a definition of 'agency'

25. Recalls, in this respect, the definition of an 'agency' established in the Triilogue of 7 March 2007, when it was agreed that, for the purposes of applying Point 47 of the IIA of 17 May 2006, the definition of an 'agency' would be determined by whether the body in question was set up pursuant to Article 185 of the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾ (Financial Regulation);

26. Would like to emphasise the importance it attributes to a clear and coherent general terminology with regard to agencies that should be established for common usage; recalls that 'regulatory agencies' are merely a sub-group of decentralised agencies;

New agencies — Link between legislative procedures and budgetary prerogatives

27. Considers it important to discuss problems of calendar as well as legal and procedural aspects that could arise in the event that a timely agreement on the financing of a new agency, pursuant to Point 47 of the IIA of 17 May 2006, is not reached in parallel with the decisions taken by the legislator; considers it equally essential to reflect on some procedural safeguards in order to ensure the full involvement of the budgetary authority in all questions which have a budgetary impact, such as the extension of agencies' task lists;

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 72).

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

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28. Recalls that as early as 2005 Parliament in its abovementioned resolution called for compulsory cost-benefit assessments before a new agency was proposed which should, in particular, concentrate on the question whether 'the agency option (including the likely costs of monitoring and coordination) is more cost-effective than having the relevant tasks performed by the Commission departments themselves', but also on issues such as the mandate and working methods of the agency or its degree of independence from the Commission as it is often of particular interest to the legislator;

Existing agencies — Monitoring

29. Underlines the need for a regular and coordinated evaluation and control exercise — avoiding duplication and overlapping — to assess the added value of already-existing decentralised agencies which no longer fall under the scope of Point 47 of the IIA of 17 May 2006; sees this as a follow-up to the work previously undertaken that resulted in the joint statement on Community agencies agreed at the Trialogue of 18 April 2007 according to which it was agreed to regularly evaluate the existing Community agencies, focusing particularly on their cost-benefit and giving detailed explanation of the criteria used for the selection of the agencies to be evaluated;

30. Notes that the analysis performed should respond to some basic cost-benefit questions and could be carried out in accordance, inter alia, with the following criteria:

- Relevance: to what extent were the objectives foreseen by the founding regulation of an agency relevant for the level of public spending authorised in the budget?
- Effectiveness: what effects (impact) have been achieved by the activity of the agency?
- Efficiency (cost-effectiveness): how economically have the various inputs been converted into output and results? Were the (expected) effects achieved at a reasonable cost, in particular with regard to the staff deployed and the internal organisation?

31. Points out that, given the agencies' overall budgetary impact, the Commission has to demonstrate convincingly that European governance via the agencies is the most cost-effective, efficient and appropriate option to implement European policies at present and in the near future;

General common framework

32. Insists on the need to establish minimum common standards with regard, amongst other things, to the role and political responsibility of the Commission in relation to the agency, the support to be granted by host countries and the timely and transparent decision on the seat of an agency which could be referred to in the agencies' founding regulations;

33. Recalls that the agencies' actions need to be governed by clear lines of accountability, in line with the provisions of the Financial Regulation; highlights the agencies' obligations concerning the discharge procedure;

34. Considers it, in addition, of the highest importance to try to define some common rules for the presentation of the agencies' budgets with the aim of making budgetary indicators, such as implementation rates of the agencies or the individual shares making up their revenue and expenditure, more transparent and comparable; believes that the general presentation of the subsidy to agencies in the EU budget might need to be adapted to the tasks and the roles of the new generation of agencies;

35. Points out that, according to the figures provided by the Commission in its abovementioned Communication, there are currently 29 regulatory agencies, which employ some 3 800 staff, with an annual budget of around EUR 1 100 million, including a Community contribution of around EUR 559 million;

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36. Insists that the auditing/discharge process must be proportionate to the overall budget of the agencies; notes in particular that the resources available to the European Court of Auditors have not increased in line with the number of agencies in recent years;

37. Reiterates the wish expressed in paragraph 7 of its resolutions of 22 April 2008 concerning discharge in respect of the implementation of the budget of the agencies that the performance of the agencies be regularly (and on an *ad hoc* basis) audited by the European Court of Auditors or another independent auditor; considers that this should not be limited to traditional elements of financial management and the proper use of public money, but should also cover administrative efficiency and effectiveness and should include a rating of the financial management of each agency;

38. Is of the opinion that all agencies should, together with their establishment plan, give an overview of their permanent and temporary staff and national experts, as well as indicate any changes in relation to the previous two years;

39. Draws attention to the European Court of Auditors' special report No 5/2008 on the sound financial management of agencies with particular reference to performance audits;

40. Calls on the Commission to merge the administrative functions of the smaller agencies in order to create the critical mass required to enable the agencies to satisfactorily comply with current rules on public procurement and with the Financial Regulation and the Staff Regulations ⁽¹⁾;

41. Urges the Commission to undertake a critical examination of the agencies' budget requests since the majority of the agencies do not utilise the funds requested;

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* * *

42. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Member States.

⁽¹⁾ Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

Indictment and bringing to trial of Joseph Kony at the International Criminal Court

P6_TA(2008)0496

European Parliament resolution of 21 October 2008 on the indictment and bringing to trial of Joseph Kony at the International Criminal Court

(2010/C 15 E/06)

The European Parliament,

— having regard to the Rome Statute of the International Criminal Court (ICC), in particular Article 86 thereof, and the entry into force of the Statute on 1 July 2002,

— having regard to the ratification of the Rome Statute by Uganda on 14 June 2002,

— having regard to the referral in 2003 by Ugandan President Yoweri Museveni to the ICC of the situation concerning the Lord's Resistance Army (LRA), which was the first referral by a State Party to the ICC since its establishment,

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- having regard to the ICC Prosecutor's decision of 29 July 2004 to open an investigation into the situation concerning Northern Uganda,
- having regard to the warrant of arrest for Joseph Kony issued by the ICC on 8 July 2005, as amended on 27 September 2005 (No ICC-02/04-01/05-53),
- having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States (ACP), of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾, as amended by the Agreement amending the Partnership Agreement, signed in Luxembourg on 25 June 2005 ⁽²⁾ ('the Cotonou Agreement'), and in particular Article 8 thereof on political dialogue and Article 11(6) on promoting the strengthening of peace and international justice,
- having regard to Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes ⁽³⁾ and its position of 9 April 2002 on the European network of contact points ⁽⁴⁾,
- having regard to Council Decision 2003/335/JHA of 8 May 2003 on the investigation and prosecution of genocide, crimes against humanity and war crimes ⁽⁵⁾ and its position of 17 December 2002 on the prosecution of war crimes and crimes against humanity ⁽⁶⁾,
- having regard to Council Common Position 2003/444/CFSP of 16 June 2003 on the International Criminal Court ⁽⁷⁾ and the Council Action Plan to follow-up on that Common Position,
- having regard to the Agreement between the ICC and the EU on Cooperation and Assistance signed on 10 April 2006, which entered into force on 1 May 2006 ⁽⁸⁾,
- having regard to the additional report of 23 June 2008 by the UN Secretary-General on children and armed conflict in Uganda,
- having regard to the EU human rights guidelines on children in armed conflict of 2003,
- having regard to its previous resolutions, in particular those of 22 May 2008 on Sudan and the ICC ⁽⁹⁾, of 3 July 2003 on human rights violations in northern Uganda ⁽¹⁰⁾, and of 6 July 2000 on the abduction of children by the Lord's Resistance Army (LRA) ⁽¹¹⁾,
- having regard to the decision of 28 August 2008 by the Office of Foreign Assets Control ('OFAC') of the US Department of the Treasury imposing new sanctions on Joseph Kony, by adding him to its 'black list', the Specially Designated Nationals (SDN) List,
- having regard to the exchange of views on the ICC at the European Parliament's Committee on Development meeting of 15 September 2008,
- having regard to Rule 91 and Rule 90(4) of its Rules of Procedure,

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 209, 11.8.2005, p. 27.

⁽³⁾ OJ L 167, 26.6.2002, p. 1.

⁽⁴⁾ OJ C 127 E, 29.5.2003, p. 130.

⁽⁵⁾ OJ L 118, 14.5.2003, p. 12.

⁽⁶⁾ OJ C 31 E, 5.2.2004, p. 83.

⁽⁷⁾ OJ L 150, 18.6.2003, p. 67.

⁽⁸⁾ OJ L 115, 28.4.2006, p. 50.

⁽⁹⁾ Texts Adopted, P6_TA(2008)0238.

⁽¹⁰⁾ OJ C 74 E, 24.3.2004, p. 879.

⁽¹¹⁾ OJ C 121, 24.4.2001, p. 401.

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- A. whereas in July 2005 the ICC issued a warrant of arrest for Joseph Kony, the Chairman and Commander-in-Chief of the LRA, under 33 counts of alleged crimes against humanity and war crimes, which was amended in September 2005; whereas warrants of arrest have also been issued for the other top LRA commanders, including Vincent Otti, Okot Odhiambo and Domic Ongwen,
- B. whereas the 33 criminal counts against Joseph Kony include 12 counts of war crimes and crimes against humanity, including murder, rape, enslavement, sexual enslavement, and inhumane acts of inflicting serious bodily injuries and suffering, and 21 counts of war crimes, including murder, cruel treatment of civilians, intentionally directing an attack against a civilian population, pillaging, inducing rape and forced enlistment of children,
- C. whereas the LRA has been fighting in the region since 1986, ostensibly against the Government of Uganda,
- D. whereas an armed rebellion has been raging in northern Uganda since 1986, currently in the name of the LRA,
- E. whereas in August 2006 the Government of Uganda and the LRA signed a Cessation of Hostilities Agreement,
- F. whereas at the height of the violence in northern Uganda in 2005, some 1,6 million persons were displaced and living in internally displaced camps, and tens of thousands of children had to sleep in urban centres every night for protection; whereas although since 2006 half of the internally displaced persons (IDPs) have been able to return to their homes or close to their homes, the situation remains critical for many IDPs who are reluctant to go back in the absence of a Final Peace Agreement,
- G. whereas the disastrous consequences of this conflict, which has resulted in the abduction of more than 20 000 children and caused immense human suffering, particularly among civilians, as well as gross human rights violations, massive displacement of populations and a breakdown of social and economic structures, are a cause for deep concern; whereas the abduction of children and their use as sex slaves or combatants is a war crime and crime against humanity,
- H. whereas in 2008 alone the LRA has allegedly carried out between 200 and 300 abductions in the Central African Republic (CAR), Southern Sudan and the Democratic Republic of Congo (DRC), thus inflicting the same violence on a new generation of victims,
- I. whereas in July 2008 the LRA attacked the Sudan Liberation Army at Nabanga and killed about 20 of its soldiers,
- J. whereas Joseph Kony has repeatedly failed to appear in Juba and has until now refused to sign the Final Peace Agreement 'until the ICC warrants of arrest and some other issues within the Agreement are resolved by the Joint Liaison Group'; whereas the Final Peace Agreement was negotiated by the Special Envoy of the UN Secretary-General for LRA-affected areas, the former President of Mozambique, Joaquim Chissano,
- K. whereas Joseph Kony used the respite during the peace process to regroup and reorganise his LRA forces in the DRC,
- L. whereas, owing to the inability of the States Parties to arrest Kony and the other LRA commanders, the LRA is currently expanding its forces through abductions,

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- M. whereas, in September 2008, according to the United Nations Children's Fund (Unicef), the LRA allegedly abducted 90 Congolese schoolchildren from the towns of Kiliwa and Duru, in the DRC, and attacked many other areas, causing massive displacements in the area,
- N. whereas the ICC plays a crucial role in preventing and curbing the perpetration of the serious crimes falling within its jurisdiction and is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as contributing to the preservation of peace and the strengthening of international security,
- O. whereas the jurisdiction of the ICC covers the most serious crimes of concern to the international community and in particular genocide, crimes against humanity and war crimes committed after 1 July 2002,
- P. whereas under the Rome Statute, States Parties have committed themselves to prosecuting such crimes within their national jurisdictions and supporting ICC intervention when national states fail to fulfil their duties,
- Q. whereas all EU Member States except the Czech Republic have ratified the Rome Statute,
- R. whereas according to the abovementioned cooperation agreement concluded between the EU and the ICC, inter alia, in order to facilitate the obligation of cooperation and assistance, the Parties agreed to the establishment of appropriate regular contacts between the ICC and the EU Focal Point for the Court,
- S. whereas the EU and its Member States should make every effort to ensure that the greatest possible number of states take part in the ICC, bearing this objective in mind during negotiations (both bilateral and multilateral) and in political dialogue with third countries and regional organisations,
- T. whereas the ICC should be mainstreamed in EU external relations, and the ratification and implementation of the Rome Statute should be brought up in human rights and political dialogues (notably at summits and other high-level meetings) with third countries, including in the context of development cooperation, such as in the framework of the Cotonou Agreement,
1. Calls on the Government of Uganda and the governments of the neighbouring countries, in particular the DRC, to cooperate fully with the ICC in its investigations and prosecutions; calls, in particular, for cooperation in arresting and surrendering Joseph Kony and other persons charged by the ICC, without delay;
 2. Deeply deplores the halting of efforts to promote the arrest of Joseph Kony and other persons charged by the ICC; reminds the Government of Uganda that as a party to the Rome Statute of the ICC it is under a duty to cooperate fully with the ICC;
 3. Notes that the Rome Statute provides that, once persons have been surrendered to the ICC, the Government of Uganda may then apply to have the cases returned to Ugandan courts, provided the ICC concludes that Ugandan courts are able and willing to genuinely investigate and prosecute the LRA suspects named in the warrants of arrest;
 4. Urges the Ugandan Government to refrain from concluding any agreements with the LRA that would circumvent international law;
 5. Urges the Member States of the EU, the African Union (AU) and particularly Uganda's neighbouring countries to address the implementation of the warrants of arrest in a consistent way;

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6. Demands the unconditional and immediate release of all persons abducted by the LRA, particularly children, who risk ending up as sex slaves or being forced to fight for the LRA;
 7. Calls on the international community to carry out investigations into recent alleged LRA abuses in the CAR, the DRC and Southern Sudan, and reported unpublicised UN inquiries into abuses in the CAR, and to disclose the findings thereof;
 8. Calls on the governments in the region, the UN Mission in the Democratic Republic of Congo (MONUC) and other international observer governments to the peace talks to track and make public the LRA's movements through intensified monitoring of regional borders and to monitor and interdict the flow of weapons and other supplies to the LRA; calls for the development of effective plans to execute the ICC warrants of arrest while minimising the risk to civilian life and without the use of excessive force, including by using MONUC;
 9. Calls on EU Member States, especially those which have been involved in Uganda and the Juba peace process, to coordinate with regional governments and the UN secretariat and peacekeeping forces with a view to the execution of the ICC warrants of arrest for LRA leaders;
 10. Draws attention to the fact that justice is a common goal to be shared between the EU and the AU;
 11. Recalls that, under the Rome Statute, States Parties have committed themselves to put an end to impunity for the most serious crimes of concern to the international community and to contribute to the prevention of such crimes; strongly believes that the ICC and the ad hoc tribunals contribute to the process of reconciliation and peace;
 12. Is worried about the absence of clear efforts to avoid diversion of international aid to the LRA, thus allowing Joseph Kony to rearm; urges the cutting of LRA supply networks; calls on the Government of Sudan to stop providing financial and military support to the LRA;
 13. Calls on the EU and international donors to support the disarmament, demobilisation and reintegration of former LRA combatants, the return of IDPs and reparation for victims;
 14. Welcomes the close and regular contacts between ICC senior officials and the EU; notes the strong EU support for participation in and implementation of the Rome Statute; stresses that EU leadership is essential for the enforcement of the ICC mandate;
 15. Strongly believes that, in the long term, the ICC contributes to the prevention of new atrocities; points out that the failure to arrest Joseph Kony has resulted in the continuation of atrocities and human rights abuses; stresses that peace and reconciliation cannot be achieved without justice for victims;
 16. Recommends that the ACP-EU Joint Parliamentary Assembly follow closely the situation in northern Uganda and human rights violations by the LRA;
 17. Instructs its President to forward this resolution to the Council, the Commission, the EU Special Representative for the Great Lakes Region, the EU Special Representative to the African Union, the Government of Uganda, the governments of the EU Member States and of the members of the UN Security Council, the institutions of the African Union and the ICC Prosecutor.
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Combating trafficking in children

P6_TA(2008)0504

Declaration of the European Parliament on combating trafficking in children

(2010/C 15 E/07)

The European Parliament,

- having regard to Articles 34 and 35 of the UN Convention on the Rights of the Child,
 - having regard to the Council of Europe Convention on Action against Trafficking in Human Beings,
 - having regard to the Charter of Fundamental Rights of the European Union,
 - having regard to Rule 116 of its Rules of Procedure,
- A. whereas child trafficking is still a persistent problem, with more than two million children annually trafficked for forced labour and sexual exploitation,
- B. whereas the development of new communication technologies increases trafficking in children, making it more difficult to manage this phenomenon,
- C. whereas national authorities and NGOs in the Member States are still not acting effectively against child trafficking, due to insufficient cross-border cooperation, lack of specialised training or inadequate implementation of existing legal standards,
1. Calls on the Member States to recognise the fight against child trafficking as a priority objective in their national child protection policies;
 2. Calls for the European Parliament and the Council to provide the necessary resources in the framework of the Commission's strategy on promoting and safeguarding children's rights;
 3. Calls on the Member States to continue actively cooperating and exchanging knowledge and experience with the relevant EU authorities and NGOs, in order to prevent and combat child trafficking, and provide adequate treatment for victims of such trafficking;
 4. Instructs its President to forward this declaration, together with the names of the signatories, to the Council and the Commission.

List of signatories

Adamos Adamou, Vittorio Agnoletto, Alexander Alvaro, Jan Andersson, Georgs Andrejevs, Laima Liucija Andrikiienė, Emmanouil Angelakas, Rapisardo Antinucci, Kader Arif, Stavros Arnaoutakis, Elspeth Attwooll, Jean-Pierre Audy, Margrete Auken, Inés Ayala Sender, Liam Aylward, Pilar Ayuso, Maria Badía i Cutchet, Mariela Velichkova Baeva, Enrique Barón Crespo, Paolo Bartolozzi, Alessandro Battilocchio, Katerina Batzeli, Edit Bauer, Jean Marie Beaupuy, Zsolt László Becsey, Ivo Belet, Irena Belohorská, Monika Beňová, Giovanni Berlinguer, Slavi Binev, Sebastian Valentin Bodu, Herbert Bösch, Guy Bono, Josep Borrell Fontelles, Victor Boștinaru, Costas Botopoulos, Catherine Boursier, Bernadette Bourzai, John Bowis, Sharon Bowles, Emine Bozkurt, Iles Braghetto, Mihael Brejc, Frieda Brepoels, Hiltrud Breyer, Jan Březina, Ieke van den Burg, Niels Busk, Cristian Silviu Bușoi, Philippe Busquin, Jerzy Buzek, Mogens Camre, Luis Manuel Capoulas Santos, Marie-Arlette Carlotti, Giorgio Carollo, Paulo Casaca, Michael Cashman, Françoise Castex, Pilar del Castillo Vera, Giusto Catania, Jean-Marie Cavada, Alejandro Cercas, Giulietto Chiesa, Ole Christensen, Sylwester Chruszcz, Luigi Cocilovo, Carlos Coelho, Dorette Corbey, Giovanna Corda, Thierry Cornillet, Jean Louis Cottigny, Michael Cramer, Corina Crețu, Gabriela Crețu, Brian Crowley, Magor Imre Csibi, Marek Aleksander Czarnecki, Ryszard Czarnecki, Hanne Dahl, Daniel Dăianu, Dragoș Florin David, Chris Davies, Bairbre de Brún, Véronique De Keyser, Panayiotis Demetriou, Gérard Deprez, Proinsias De Rossa, Marielle De Sarnez, Marie-Hélène Descamps, Harlem Désir, Christine De Veyrac, Mia De Vits, Jolanta Dičkutė, Alexandra Dobolyi, Valdis Dombrovskis, Beniamino Donnici, Avril Doyle, Mojca Drčar Murko, Bárbara Dührkop, Dührkop, Andrew Duff, Árpád Duka-Zólyomi, Constantin Dumitriu, Lena Ek, Saïd El Khadraoui,

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Maria da Assunção Esteves, Edite Estrela, Harald Ettl, Jill Evans, Göran Färm, Richard Falbr, Emanuel Jardim Fernandes, Elisa Ferreira, Ilda Figueiredo, Roberto Fiore, Věra Flasarová, Nicole Fontaine, Glyn Ford, Armando França, Duarte Freitas, Urszula Gacek, Kinga Gál, Milan Gaľa, Vicente Miguel Garcés Ramón, Iratxe García Pérez, Jean-Paul Gauzès, Evelyne Gebhardt, Eugenijus Gentvilas, Georgios Georgiou, Lidia Joanna Geringer de Oedenberg, Claire Gibault, Adam Gierek, Maciej Marian Giertych, Neena Gill, Robert Goebbels, Bogdan Golik, Bruno Gollnisch, Ana Maria Gomes, Donata Gottardi, Hélène Goudin, Genowefa Grabowska, Martí Grau i Segú, Louis Grech, Nathalie Griesbeck, Lissy Gröner, Elly de Groen-Kouwenhoven, Mathieu Grosch, Françoise Grossetête, Lilli Gruber, Ignasi Guardans Cambó, Pedro Guerreiro, Umberto Guidoni, Zita Gurmai, Catherine Guy-Quint, Fiona Hall, Małgorzata Handzlik, Gábor Harangozó, Malcolm Harbour, Marian Harkin, Joel Hasse Ferreira, Satu Hassi, Anna Hedh, Gyula Hegyi, Erna Hennicot-Schoepges, Edit Herczog, Esther Herranz García, Jim Higgins, Jens Holm, Mary Honeyball, Richard Howitt, Ján Hudacký, Ian Hudghton, Stephen Hughes, Alain Hutchinson, Filiz Hakaeva Hyusmenova, Iliana Malinova Iotova, Mikel Irujo Amezaga, Carlos José Iturgaiz Angulo, Lily Jacobs, Anneli Jäätteenmäki, Stanisław Jałowiecki, Lívia Járóka, Pierre Jonckheer, Romana Jordan Cizelj, Madeleine Jouye de Grandmaison, Jelko Kacin, Filip Kaczmarek, Gisela Kallenbach, Ioannis Kasoulides, Sylvia-Yvonne Kaufmann, Piia-Noora Kauppi, Metin Kazak, Glenys Kinnock, Evgeni Kirilov, Ewa Klamt, Wolf Klinz, Dieter-Lebrecht Koch, Jaromír Kohlíček, Maria Eleni Koppa, Magda Kósáné Kovács, Miloš Koterec, Guntars Krasts, Wolfgang Kreissl-Dörfler, Ģirts Valdis Kristovskis, Urszula Krupa, Wiesław Stefan Kuc, Sepp Kusstatscher, Zbigniew Krzysztof Kuźmiuk, André Laignel, Alain Lamassoure, Stavros Lambrinidis, Alexander Graf Lambsdorff, Vytautas Landsbergis, Esther De Lange, Raymond Langendries, Vincenzo Lavarra, Henrik Lax, Johannes Lebech, Stéphane Le Foll, Roselyne Lefrançois, Bernard Lehideux, Jörg Leichtfried, Jo Leinen, Jean-Marie Le Pen, Katalin Lévai, Janusz Lewandowski, Bogusław Liberadzki, Marie-Noëlle Lienemann, Kartika Tamara Liotard, Pia Elda Locatelli, Eleonora Lo Curto, Antonio López-Istúriz White, Andrea Losco, Patrick Louis, Caroline Lucas, Sarah Ludford, Astrid Lulling, Elizabeth Lynne, Marusya Ivanova Lyubcheva, Jules Maaten, Linda McAvan, Arlene McCarthy, Mary Lou McDonald, Mairead McGuinness, Jamila Madeira, Eugenijus Maldeikis, Ramona Nicole Mănescu, Vladimír Maňka, Marian-Jean Marinescu, Helmuth Markov, Sérgio Marques, David Martin, Miguel Ángel Martínez Martínez, Jan Tadeusz Masiel, Antonio Masip Hidalgo, Marios Matsakis, Maria Matsouka, Mario Mauro, Manolis Mavrommatis, Hans-Peter Mayer, Jaime Mayor Oreja, Manuel Medina Ortega, Erik Meijer, Íñigo Méndez de Vigo, Emilio Menéndez del Valle, Marianne Mikko, Miroslav Mikolášik, Gay Mitchell, Nickolay Mladenov, Viktória Mohácsi, Claude Moraes, Javier Moreno Sánchez, Eluned Morgan, Luisa Morgantini, Philippe Morillon, Elisabeth Morin, Roberto Musacchio, Cristiana Muscardini, Joseph Muscat, Riitta Myller, Pasqualina Napoletano, Juan Andrés Naranjo Escobar, Cătălin-Ioan Nechifor, Catherine Neris, Bill Newton Dunn, Annemie Neyts-Uyttebroeck, Angelika Niebler, Lambert van Nistelrooij, Vural Öger, Cem Özdemir, Péter Olajos, Jan Ólbrycht, Gérard Onesta, Dumitru Oprea, Josu Ortuondo Larrea, Siiri Oviir, Reino Paasilinna, Maria Grazia Pagano, Justas Vincas Paleckis, Marie Panayotopoulos-Cassiotou, Vladko Todorov Panayotov, Pier Antonio Panzeri, Dimitrios Papadimoulis, Atanas Papanizov, Georgios Papastamkos, Neil Parish, Ioan Mircea Pașcu, Alojz Peterle, Maria Petre, Rihards Pīks, Józef Pinior, Gianni Pittella, Francisca Pleguezuelos Aguilar, Zita Pleštinská, Rovana Plumb, Anni Podimata, Zdzisław Zbigniew Podkański, Lydie Polfer, José Javier Pomés Ruiz, Mihaela Popa, Nicolae Vlad Popa, Christa Prets, Pierre Pribetich, Vittorio Prodi, John Purvis, Bilyana Ilieva Raeva, Miloslav Ransdorf, Poul Nyrup Rasmussen, José Ribeiro e Castro, Teresa Riera Madurell, Karin Riis-Jørgensen, Giovanni Rivera, Maria Robsahm, Michel Rocard, Bogusław Rogalski, Zuzana Roithová, Luca Romagnoli, Raül Romeva i Rueda, Dariusz Rosati, Wojciech Roszkowski, Libor Rouček, Martine Roure, Heide Rühle, Eoin Ryan, Guido Sacconi, Alojzas Sakalas, Katrin Saks, José Ignacio Salafranca Sánchez-Neyra, María Isabel Salinas García, Antolín Sánchez Presedo, Manuel António dos Santos, Daciana Octavia Sârbu, Christel Schaldemose, Olle Schmidt, Pál Schmitt, György Schöpflin, Inger Segelström, Esko Seppänen, Adrian Severin, Czesław Adam Siekierski, Brian Simpson, Kathy Sinnott, Peter Skinner, Csaba Sógor, Renate Sommer, Søren Bo Søndergaard, María Sornosa Martínez, Jean Spautz, Bart Staes, Grażyna Staniszevska, Gabriele Stauner, Petya Stavreva, Dirk Sterckx, Struan Stevenson, Catherine Stihler, Theodor Dumitru Stolojan, Dimitar Stoyanov, Margie Sudre, Eva-Britt Svensson, József Szájer, István Szent-Iványi, Hannu Takkula, Charles Tannock, Andres Tarand, Britta Thomsen, Marianne Thyssen, Silvia-Adriana Țicău, Gary Titley, Patrizia Toia, László Tőkés, Ewa Tomaszewska, Witold Tomczak, Jacques Toubon, Antonios Trakatellis, Catherine Trautmann, Kyriacos Triantaphyllides, Evangelia Tzampazi, Feleknas Uca, Vladimir Urutchev, Inese Vaidere, Nikolaos Vakalis, Adina-Ioana Vălean, Johan Van Hecke, Anne Van Lancker, Daniel Varela Suanzes-Carpegna, Ari Vatanen, Yannick Vaugrenard, Riccardo Ventre, Donato Tommaso Veraldi, Bernadette Vergnaud, Kristian Vigenin, Dominique Vlasto, Diana Wallis, Graham Watson, Renate Weber, Åsa Westlund, Glenis Willmott, Janusz Wojciechowski, Corien Wortmann-Kool, Francis Wurtz, Anna Záborská, Jan Zahradil, Zbigniew Zaleski, Iva Zanicchi, Andrzej Tomasz Zapałowski, Tatjana Ždanoka, Dushana Zdravkova, Roberts Zīle, Gabriele Zimmer, Jaroslav Zvěřina, Tadeusz Zwiefka

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European Council of 15 and 16 October 2008

P6_TA(2008)0506

European Parliament resolution of 22 October 2008 on the European Council of 15 and 16 October 2008

(2010/C 15 E/08)

The European Parliament,

- having regard to the Presidency Conclusions following the European Council of 15 and 16 October 2008,
 - having regard to the European Council report and the Commission statement on the European Council of 15 and 16 October 2008,
 - having regard to the Council conclusions on the EU supervisory framework and financial stability arrangements of 14 May 2008, and the Council conclusions on related issues of 3 June 2008, 4 December 2007 and 9 October 2007,
 - having regard to Rule 103(4) of its Rules of Procedure,
- A. whereas the EU is in a critical situation concerning the financial crisis, the challenge of climate change and the need to establish a clear institutional settlement,
- B. whereas the current financial crisis, which was triggered by US subprime mortgages, and had its origins, inter alia, in years of excessively expansionist monetary policy by the US Federal Reserve, lack of transparency in the financial markets, excessive leverage of financial institutions, deficient supervision of financial markets, bad quality of ratings and wrong assumptions on the evolution of real estate prices, has spread worldwide as a result of the increasingly integrated nature of markets,
- C. whereas financial market innovation can be useful, but such financial products need to be regulated and transparent so as to ensure the right balance between efficiency and stability, and whereas the financial markets should be at the service of the real economy,
- D. whereas existing tools have failed to contain the impact of the financial crisis in ways that minimise collective costs and avoid hazard, and whereas there is a need to ensure coherent EU level supervision of ever more integrated European financial markets; whereas financial stability and crisis management nevertheless involves a wider range of actors than just supervisors,
- E. whereas the Presidency Conclusions dedicated to the financial crisis omit to refer to the European Parliament as co-legislator in implementing decisions of the European Council,
- F. whereas parliamentary procedures for ratification of the Treaty of Lisbon have been completed in 24 Member States; whereas the institutional reforms contained in the Treaty of Lisbon are urgently needed in order to ensure that the European Union functions smoothly and in a balanced manner, with full democratic scrutiny,
- G. whereas, for the important political events in 2009, in particular the European elections and the setting-up of a new European Commission, clarity is required as regards the institutional provisions which will apply,

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- H. whereas the EU plays a major role on the world stage in terms of combating climate change through both its leadership in international negotiations and the significant reductions to which it has committed itself in the 27 Member States; whereas, in this connection, the European Council of 8 and 9 March 2007 committed itself to achieving reductions in greenhouse gas emissions of at least 20 % by 2020, increasing to 30 % in the event of a comprehensive international agreement,
- I. whereas the fight against climate change is a major issue and objective for the European Union and should be dealt with using a comprehensive approach at international level,
- J. whereas the fulfilment of the objectives of the Lisbon-Göteborg Strategy and the climate change and energy package requires long-term investments, and whereas the role of the European Investment Bank (EIB) must be further expanded in this respect,

Macroeconomic impact of the global financial crisis on the real economy

1. Strongly underlines the importance of European macroeconomic policies responding quickly and in a highly coordinated way in order to resuscitate global economic growth; observes, however, that the principles of the Stability and Growth Pact must not be undermined and that Member States should aim for fiscal consolidation;
2. Is gravely concerned about the situation on the financial markets and calls for a further reinforcement of coordinated action in order to restore confidence to the markets;
3. Welcomes the Presidency Conclusions' endorsement of the measures decided by the Eurogroup on 12 October 2008 as a first important and coordinated step to restore confidence in the markets, to boost inter-bank loans and to enhance banks' own funds so that they can continue to lend to companies and to households; agrees that these measures were necessary to contain the current financial crisis;
4. Considers it crucial that Member States show strong commitment and efficient management of the crisis in order to restore stable market conditions, as this is key to confidence; believes that the first ever meeting of Heads of State and of Government of the euro area countries, taking decisions in that capacity, requires further evolution;
5. Notes that this crisis has implications beyond the financial markets, in particular in respect of business viability, jobs, personal finance and SMEs, and that the impact would have been unpredictable if national authorities, the European Central Bank (ECB) and other central banks had not introduced measures in order to restore confidence to the financial system again;
6. Stresses the need for action with regard to financial stability and systemic risk; urges the Commission and the Council to revitalise the Lisbon agenda and adapt Member States' national reform programmes in this time of economic distortion up to the end of this year in order to protect the jobs and incomes of EU citizens;
7. Is convinced that a sustainable and growth-oriented macroeconomic environment is necessary; recalls the paramount importance of ongoing access to credit for citizens and SMEs and of investments in EU infrastructure in order to avoid a dramatic downturn in economic growth and employment; stresses the potential role to be played by the EIB in this regard;

Exit strategy from the financial crisis

8. Is determined to support measures that can return liquidity to the markets so that credit facilities can be restored to businesses and individuals; is conscious of the need to reassure taxpayers that any measures taken will reflect their concerns, and notes that a restoration of financial stability is critical to future economic growth; invites Member States to review the functioning of the current financial system if they are serious about their willingness to restore confidence in the financial markets and tackle the financial crisis globally;

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9. Warmly welcomes the rapid and comprehensive reaction by the Commission regarding application of State aid rules to measures taken in relation to financial institutions; calls on the Commission, in the context of the strict monitoring of emergency measures, to establish an interdisciplinary team, including expertise from DG Competition, the Level 3 Committees and the European System of Central Banks, in order to pool knowledge and know-how and to ensure that there are balanced, impartial and high-quality judgments throughout the Member States;

10. Appreciates the decision of the Commission to set up a high-level group in order to elaborate a supervisory architecture that is solid and sustainable, and that provides for better cross-sector and cross-border integration and coordination; stresses the importance of its being given a precise mandate, within a short time-frame, and reporting to Parliament, the Council and the Commission;

11. Approves the creation of a 'financial crisis unit' and asks the Council to agree in the shorter term on the modalities of its functioning and its cooperation with the established high-level group; strongly criticises the absence of Parliament from this crisis unit; supports the creation of a more powerful early-warning system, to be run by the Commission and the ECB, and endowed with coordination and enforcement powers, in which the Level 3 Committees should take part;

12. Approves the Council's decision to enhance the role of the EIB as a lender and a borrower;

13. Is concerned about hazard in the financial markets created by the size of State support packages, and considers it important that, in the interests of taxpayers and Member States' budgets, each time that public money is spent on rescuing a financial institution, it is accompanied by public oversight, improvements in governance, limitations on remuneration, strong accountability to public authorities and investment strategies for the real economy;

Improving regulation

14. Calls on the Council to act together with Parliament, and calls on the Commission to use its power of initiative to propose measures to strengthen the EU regulatory and supervisory framework and crisis management at the EU regulatory level;

15. Stresses the need to analyse carefully the causes of the current financial crisis, in particular the adequacy of supervision and compliance with the existing rules; reiterates its call for legislative measures regarding in particular bank regulation and supervision, the role of credit rating agencies, securitisation and oversight of securitisation, hedge funds and other types of new institution, the role of leverage, transparency requirements, winding-up rules, clearing of over-the-counter (OTC) markets and crisis prevention mechanisms; welcomes the Commission's proposal to increase the minimum protection for bank deposits and reiterates its commitment to analysing the proposal rapidly;

16. Reiterates the need to strengthen the Lamfalussy process, as requested in its resolution of 9 October 2008 with recommendations to the Commission on Lamfalussy follow-up: future structure of supervision⁽¹⁾, including the supervision of the largest cross-border financial groups by colleges and the provision of a clear legal status and stronger prerogatives for the Level-3 Committees, as a means to improve supervision in the EU and help international dialogue and policy coordination in this field;

17. Points out that a crisis transcending national jurisdictions cannot be tackled only individually by national authorities and that in cross-border crises cooperation and mutual trust between supervisory authorities are crucial; urges the Commission and the responsible national authorities to develop jointly appropriate proposals for effective crisis management for the further consideration of Parliament; draws attention to the importance of having strong coordination at EU level when meeting at G8 level and strongly believes in global answers to the crisis which would promote the establishment of a new international financial order, with the reform of the Bretton Woods institutions;

⁽¹⁾ Texts Adopted, P6_TA(2008)0476.

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18. Welcomes the initiative of promoting as soon as possible an international conference to discuss the regulatory and supervisory actions that must be undertaken in response to the present crisis; is convinced that the EU must play a leading role in discussions of the future of the international financial architecture; asks the European Council and the Commission to associate the European Parliament in this process;

19. Urges the Commission to put forward without any further delay its proposal for review of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments ⁽¹⁾;

Lisbon Treaty

20. Reiterates its respect for the result of the Irish referendum and for the results of the ratification procedures of the other Member States, and considers that it is possible to meet the concerns that have been expressed by the Irish people in order to secure a solution acceptable to all before the European elections; stands ready to offer the Irish Government and Parliament any assistance they may require in order to present a set of proposals which will forge a broader, more informed consensus in Irish public opinion about Ireland's future within a reformed and strengthened European Union and which will be acceptable to Ireland's EU partners;

21. Calls on the European Council to define at its next meeting a method and a timetable which would allow it to achieve this result;

Energy and climate change

22. Holds the view that the EU's post-2012 climate targets should not be questioned as a consequence of the present international financial crisis; undertakes to cooperate closely with the Council and Commission to find an effective and workable agreement on the climate change and energy package in the shortest practicable time; emphasises, however, that it is crucial for the EU's industry, its employees and consumers that the measures envisaged to meet these targets are thoroughly evaluated to ascertain their implications for the sectoral and general competitiveness of EU companies; reminds the Council that this is a codecision procedure, where qualified majority is required;

23. Calls on the Council to maintain the proposed ambitious targets of achieving a mandatory 20 % share of sustainable renewable energies in the Community's overall final energy consumption and a mandatory 10 % share of energy from sustainable renewable sources in each Member State's transport sector by 2020;

24. Notes the endorsement of the European Council for moving towards a 30 % reduction in the event of an international agreement provided that other developed countries commit themselves to comparable emission reductions and economically more advanced developing countries contribute adequately, in accordance with their responsibilities and respective capabilities;

25. Recalls that it is crucial for EU industry that the necessary flexibility measures be introduced for the sectors most exposed to 'delocalisation'/carbon leakage and loss of competitiveness;

26. Draws attention to the fact that the potential for Carbon Dioxide Capture and Storage to assist in the major abatement of CO₂ in the power sector and industrial installations has been recognised by, among others, the Intergovernmental Panel on Climate Change; calls on the Council, therefore, to ensure that adequate funding is made available so that the 12 demonstration projects it has called for can begin operations by 2015;

⁽¹⁾ OJ L 157, 26.6.2003, p. 38.

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27. Recalls the need to include the proposal for a regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars as part of the Community's integrated approach to reducing CO₂ emissions from light-duty vehicles (COM(2007)0856) as one of the legislative proposals in the climate change and energy package;

Energy security

28. Calls for strong political commitment to moving to a low-carbon EU economy, along with increased use of indigenous sources, decentralised energy production and energy saving measures to promote renewables, energy efficiency and other low-carbon energy sources, to pursue diversification of energy supply and to reduce dependence on imported fossil fuels, as this shift is the most logical response to higher oil prices; endorses the priority that these strategic measures should be followed up by strong financial commitments to research and development;

29. Calls on the Council and the Commission to pursue with determination the Parliament's recommendations aiming at a common European external policy on energy, in particular by promoting the unity of the EU in negotiations with energy suppliers and transit countries and defending its interests as a whole, developing efficient energy diplomacy, adopting more effective mechanisms for responding to crisis situations and ensuring the diversification of energy suppliers; recalls the need to adopt a strategy to this end accompanied by the necessary instruments to carry it out; calls for special attention to be paid to building the necessary interconnections which are missing, particularly in the eastern part of Europe;

30. Welcomes the Council's call to strengthen and supplement critical infrastructure; calls on the Commission to implement the trans-European energy networks and establish a priority interconnection plan, without neglecting liquefied natural gas reception, regasification infrastructure and storage facilities; welcomes the special attention given to the isolated regions of the EU; stresses the importance of further developing European interconnection and grid infrastructure to bring increasing levels of offshore wind power onto markets; notes that cross-border interconnections will require special measures, such as preferential funding or tax exemptions; notes that completing the missing links in trans-European networks will improve security of supply, as well as contributing to the completion of the internal market;

31. Stresses the need to enhance cooperation with neighbouring countries of the Black Sea region in an institutional and multilateral arrangement, including issues related to the security of energy supply and transit, and the transparency of market operation;

32. Points out that security of energy supply is a priority for the European Union; stresses in this regard that the development of joint EU renewable energy projects must play a key role in securing energy supply, while ensuring compliance with the Lisbon and Göteborg goals;

33. Underlines that energy efficiency is not only the most cost-effective means of reducing greenhouse-gas emissions but also has a direct positive impact on the economy, through lower fuel bills and increased consumer spending power on other goods and services; calls on Member States to speed up the implementation of energy-efficiency policies and existing legislation;

34. Considers a fully operational internal market paramount for supply security; notes that the EU energy market is still not fully completed and that full implementation is imperative; welcomes the call to finalise the legislative package on the internal energy market before the end of the parliamentary term; calls on the Council to start negotiations with Parliament on that package, based on the political agreement reached on 10 October 2008 in the Energy Council;

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European Pact on Immigration and Asylum

35. Welcomes the initiative of the French Presidency on the European Pact on Immigration and Asylum in so far as it promotes a coherent and balanced approach to migration in its twofold objectives of providing legal channels of migration while at the same time tackling illegal migration; in this context believes that a common immigration policy should be based on the assumption that migrants are individual members of society and potential citizens; takes the view that, in addition, Member States should try to put in place clear, effective policies for social inclusion and integration; considers, therefore, that the Pact needs to be accompanied by concrete legislative proposals;

36. Agrees with the Council that the European Pact on Immigration and Asylum should provide the framework for action under future Presidencies;

Follow-up to the European Council of 1 September 2008

37. Takes the view that there cannot be a military solution to the conflicts in the Caucasus, and expresses its firm condemnation of all those who resorted to force and violence in order to change the situation in the Georgian breakaway territories of South Ossetia and Abkhazia;

38. Recalls the disproportionate military action by Russia in Georgia in early August 2008 and its deep incursion into the country, as well as its unilateral decision to recognise the independence of Abkhazia and South Ossetia;

39. Calls on Russia to respect the sovereignty and territorial integrity of Georgia and the inviolability of its borders as recognised by all EU Member States;

40. Underlines that the EU must review its policy towards Russia should Russia not comply with its commitments under the agreements of 12 August and 8 September 2008;

41. Welcomes the Council's position regarding the situation in Georgia; recalls the commitments made in the agreements of 12 August and 8 September 2008; stresses that the withdrawal of Russian troops from the areas adjacent to South Ossetia and Abkhazia is an essential additional step; calls for the safe and quick return of refugees, accompanied by the deployment of EU observers on the ground; deplores the failure of the talks between Russia and Georgia in Geneva on 15 October 2008;

42. Regrets furthermore that the European Union Monitoring Mission (EUMM) in Georgia is not allowed to enter the two breakaway regions where Russia plans to station 7 600 regular army troops replacing the small contingents of Russian peacekeepers deployed in both territories after the ceasefire agreements of 1992 to 1994;

43. Looks forward to the conclusions of the International Donors' Conference on Georgia of 22 October 2008; welcomes the Commission's commitment to provide strong political, financial and practical support to Georgia; calls on the Commission to submit and quickly follow through with measures aimed at the rehabilitation and recovery of the conflict areas and to step up humanitarian assistance with a view to resettling and providing shelter before winter to the people affected by the war;

44. Notes that all remaining issues have to be resolved at the international conference in Geneva, especially as far as the situation in, and future of, South Ossetia and Abkhazia, and notably the continuing Russian military presence in Akhgori and Perevi in South Ossetia and the Kodori Gorge in Abkhazia are concerned, and that until then relations between the EU and Russia cannot be fully normalised;

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45. Reminds the Russian authorities that it is important to ensure that persons and NGOs that are engaged in defending human and civil rights can operate in accordance with Russia's commitments to the Council of Europe and free of intimidation;

46. Calls on the Council and the Commission to consider selective application of the European Neighbourhood and Partnership Instrument and the European Instrument for Human Rights and Democracy to Belarus by extending greater support to Belarusian civil society; emphasises that the democratic opposition in Belarus must be fully involved in the dialogue between the EU and Belarus;

47. Calls on the Council and Commission to launch a genuine dialogue with the Belarusian authorities that is based on a conditional and gradual approach, with benchmarks, timetables, revision clauses and adequate financial means;

48. Welcomes the support given by the European Council to the 'Eastern Partnership' that is currently being drawn up by the Commission in order to strengthen relations between the European Union and its eastern neighbours; underlines that this partnership must have a concrete and tangible content, notably as regards freedom of movement and free trade, but also sufficient financial resources within the EU budget;

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49. Instructs its President to forward this resolution to the Council, the Commission and the parliaments of the Member States.

Evaluation of the Australia-EU PNR agreement

P6_TA(2008)0512

European Parliament recommendation of 22 October 2008 to the Council concerning the conclusion of the Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian customs service (2008/2187(INI))

(2010/C 15 E/09)

The European Parliament,

- having regard to the proposal for a recommendation to the Council by Sophia in 't Veld on behalf of the ALDE Group on the Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian customs service (B6-0383/2008),
- having regard to Articles 2, 6, 24, 29 and 38 of the Treaty on European Union (TEU) which are the legal foundation for a European area of freedom, security and justice and for international negotiations with third countries and organisations as far as police and judicial cooperation in criminal matters are concerned,
- having regard to Council Decision 2008/651/CFSP/JHA of 30 June 2008 on the signing, on behalf of the European Union, of an Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service ⁽¹⁾ and to the Agreement itself,

⁽¹⁾ OJ L 213, 8.8.2008, p. 47.

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- having regard to the fact that according to TEU Article 24(5), that Agreement is currently binding on a provisional basis only on those Member States which did not issue statements to the effect that they had to comply with their own constitutional procedure, as did Belgium, the Czech Republic, Germany, Ireland, Latvia, Hungary, Malta, the Netherlands, Poland and Finland ⁽¹⁾,
- having regard to the fact that, in view of the legal base chosen for the abovementioned Council Decision, namely TEU Articles 38 and 24 (the latter of which refers to external relations), TEU Article 21 would require the Presidency to consult Parliament on the main aspects and the basic choices of the common foreign and security policy,
- having regard to its previous resolutions and recommendations on the PNR issue ⁽²⁾,
- having regard to Article 8(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Article 3(2) and Article 6(1) of Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data ⁽³⁾,
- having regard to the basic principles of loyal cooperation between the institutions, which imply that Parliament will be fully informed and consulted and to the fact that Parliament was not even informed of the pending negotiations by the Commission and/or the Council, contrary to what happened in the case of other PNR- related Agreements and even during the first round of negotiations with Australia in 2003/2004 ⁽⁴⁾,
- having regard to the fact that notwithstanding the unwillingness of the other institutions, Parliament should take a position on a matter which affects the fundamental rights of citizens and which is also currently under discussion as a possible subject for EU legislation,
- having regard to Rule 114(3) and Rules 83(5) and 94 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0403/2008),

1. Addresses the following recommendations and observations to the Council:

Procedural aspects

- (a) considers that the procedure followed for the conclusion of the Agreement lacks democratic legitimacy, as at no stage there was any meaningful democratic scrutiny or Parliamentary approval; notes that the Council routinely chooses this procedure for the conclusion of international agreements that affect the fundamental rights of European Union citizens;
- (b) notes that despite its repeated requests, Parliament has at no point been informed or consulted on the adoption of the mandate, conduct of the negotiations or the conclusion of the Agreement; and accordingly considers that the procedure followed by the Council does not comply with the principles of loyal cooperation;

⁽¹⁾ Some of the Member States adopted specific declarations published in the Council Minutes and accessible at the following address: <http://register.consilium.europa.eu/pdf/en/08/st10/st10439.en08.pdf>

⁽²⁾ Parliament resolutions of 13 March 2003 on transfer of personal data by airlines in the case of transatlantic flights (OJ C 61 E, 10.3.2004, p. 381), of 9 October 2003 on transfer of personal data by airlines in the case of transatlantic flights: state of negotiations with the USA (OJ C 81 E, 31.3.2004, p. 105) and of 31 March 2004 on the draft Commission decision noting the adequate level of protection provided for personal data contained in the Passenger Name Records (PNRs) transferred to the US Bureau of Customs and Border Protection (OJ C 103 E, 29.4.2004, p. 665), recommendation of 7 September 2006 to the Council on the negotiations for an agreement with the United States of America on the use of passenger name records (PNR) data to prevent and combat terrorism and transnational crime, including organised crime (OJ C 305 E, 14.12.2006, p. 250) and position of 7 July 2005 on the proposal for a Council decision on the conclusion of an Agreement between the European Community and the Government of Canada on the processing of Advance Passenger Information (API)/Passenger Name Record (PNR) data (OJ C 157 E, 6.7.2006, p. 464).

⁽³⁾ OJ L 261, 6.8.2004, p. 24.

⁽⁴⁾ The Committee on Civil Liberties, Justice and Home Affairs took note of these negotiations also on the basis of the Article 29 Data Protection Working Party's opinion on this subject. See: http://ec.europa.eu/justice_home/fsj/privacy/docs/wpdocs/2004/wp85_en.pdf

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- (c) notes that national parliamentary approval is required in only ten out of the 27 EU Member States, without there being any possibility of proposing any modifications; considers this procedure to be totally inadequate; and notes that future modifications of the terms of the Agreement will be made without national parliamentary approval;
- (d) remains in doubt as to the legal basis chosen by the Council for an international agreement which is focused purely on the internal security needs of a third State and which has no added value as far as the security of the EU, of its Member States or of EU citizens is concerned; therefore reserves its right to intervene before the Court of Justice of the European Communities in the event of the legitimacy of the Agreement being called into question by a third party;
- (e) calls on the Council and the Commission to fully involve Parliament and national parliaments in the adoption of a mandate for negotiations and the conclusion of any future agreements on the transfer of personal data, particularly the current talks with South Korea on the transfer of PNR data;

Scope and purpose

- (f) notes that throughout the text of the Agreement a wide range of purposes is mentioned, and different terms are used side by side:
 - the fight against 'terrorism and related crimes and other serious crimes, including organised crime, that are transnational in nature' (introduction),
 - 'strictly for the purpose of preventing and combating' terrorism and related crimes (Article 5(1)(i)) and other serious crimes, including organised crime, that are transnational in nature (Article 5(1)(ii)),
 - flight from warrants or custody for the crimes described above (Article 5(1)(iii)),
 - to safeguard public security and law enforcement (introduction),
 - customs, immigration and crime (references to respective Acts in introduction),
 - 'on a case by case basis' where necessary for the protection of the vital interest of the data subject or other persons, in particular as regards the risk of death or serious injury to the data subject or others (Article 5(2)),
 - a significant public health risk (Article 5(2)),
 - supervision and accountability of public administration, including requirements under the Freedom of Information Act, the Human Rights and Equal Opportunities Commission Act, the Privacy Act, the Auditor General Act, or the Ombudsman Act (Article 5(3));
- (g) considers therefore that the purpose limitation is totally inadequate, making it impossible to establish whether the measures are justified and proportional; and that as a result, the Agreement may not conform to EU and international data protection standards, or comply with Article 8 of the ECHR, which requires a precise purpose limitation; considers that this might leave the Agreement open to legal challenge;

Data protection

- (h) welcomes the fact that the Australian Privacy Act will apply unabridged to EU citizens, but is concerned about any exceptions and exemptions that may leave EU citizens with incomplete legal protection; believes that the Agreement should be fully compliant not only with Australian data protection laws, but also and primarily with EU laws; insists that mere compliance with the Agreement cannot replace a formal adequacy finding, and that it is not sufficient that European Union and Australian data protection laws, policies and principles share a common base;

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- (i) welcomes the decision to disclose data in bulk only when anonymised;
- (j) notes, with regard to the rights of the data subjects, that the Agreement provides that Australia shall provide a system, accessible by individuals regardless of their nationality or country of residence, for individuals to exercise their rights; with a view to informing passengers, the willingness of the Australian Customs Service to inform the public regarding the processing of PNR data should be welcome;
- (k) remarks that, unlike the Agreement between the European Union and the United States of America on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the United States Department of Homeland Security (DHS) (2007 PNR Agreement) ⁽¹⁾, in the event of a dispute arising between the parties to the Australian Agreement there is provision for a conflict resolution mechanism, and the EU data protection authorities may exercise their existing powers to suspend data flows to protect individuals with regard to the processing of their personal data where there is a substantial likelihood that the provisions of the Agreement are being infringed;
- (l) welcomes the participation of the data protection authorities in the joint review, but regrets that no firm deadline has been set for such a review; calls on the Commission and the Council to request a review before June 2010, and to present the findings of that review to Parliament;
- (m) welcomes, in relation to onward transfers, the fact that there are limited possibilities for onward transfers, in particular since onward transfers take place only on a case-by-case basis and the Australian Customs Service maintains a log of all disclosures;
- (n) notes that according to Article 2(2) no data will be stored, but that a retention period of 5,5 years is mentioned in the Annex, point 12; though shorter than in the agreements with the US, Parliament considers that the proportionality of a retention period of 5,5 years cannot be established, as the purposes for which passenger data are being stored are insufficiently specified;
- (o) remarks, with regard to sensitive data, that the Australian Customs Service have specifically stated they do not want or need sensitive data, which begs the question of why other jurisdictions such as Canada and US need them and gives greater assurance that the Australian Customs Service will actually filter out and delete any sensitive data which they may receive; however, the fact that the responsibility of the data controller for filtering sensitive EU-sourced data is given to the recipient of the data, i.e. the Australian Customs Service, is consistent with accepted data protection standards, such as those of Convention 108 of 28 January 1981 of the Council of Europe ⁽²⁾ and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and the free movement of such data ⁽³⁾;
- (p) insists that an exchange of diplomatic notes is an unacceptable method for amending the list of departments and agencies that may have access to PNR data;
- (q) deplores the fact that, taking into account the categories of data transferred to the Australian Customs Service, the data requested are the same categories of data as in the above mentioned 2007 US Agreement (the 34 data fields were grouped in 19 categories of data, giving the impression that the amount of transferable data had been markedly reduced, which was actually not the case); such a wide collection of data is not justified and must be considered disproportionate;

⁽¹⁾ OJ L 204, 4.8.2007, p. 18.

⁽²⁾ Council of Europe Convention of 28 January 1981 for the protection of individuals with regard to automatic processing of personal data and subsequent amendments thereto.

⁽³⁾ OJ L 281, 23.11.1995, p. 31.

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2. Invites the Member States and the national parliaments which are currently examining this Agreement and/or the one with the US (Belgium, the Czech Republic, Spain, Hungary, the Netherlands and Poland) to take in account the observations/recommendations raised above;

3. Reminds the Council that in the event of the entry into force of the Treaty of Lisbon, Parliament should be associated on a fair basis with the review of all the PNR agreements;

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4. Instructs its President to forward this recommendation to the Council and, for information, to the Commission and to the governments and parliaments of the Member States and to the government and parliament of Australia.

Challenges to collective agreements in the EU

P6_TA(2008)0513

European Parliament resolution of 22 October 2008 on challenges to collective agreements in the EU (2008/2085(INI))

(2010/C 15 E/10)

The European Parliament,

- having regard to Article 2, in particular the first indent, of the Treaty on European Union and Article 3(1)(j) of the EC Treaty,
- having regard to Articles 136, 137, 138, 139 and 140 of the EC Treaty,
- having regard to Articles 12, 39 and 49 of the EC Treaty,
- having regard to the Treaty on European Union as amended by the Treaty of Lisbon of 13 December 2007, in particular Article 3 thereof,
- having regard to Article 152 of the Treaty on the functioning of the European Union which recognises the importance of social dialogue and collective bargaining for development,
- having regard to Articles 27, 28 and 34 of the Charter of Fundamental Rights of the European Union,
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 11 thereof,
- having regard to the European Social Charter, in particular Articles 5, 6 and 19 thereof,
- having regard to the European Convention on the Legal Status of Migrant Workers,
- having regard to Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services ⁽¹⁾ (the PWD),
- having regard to the Commission's services report on the implementation of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (SEC(2006)0439) (the Services Report),

⁽¹⁾ OJ L 18, 21.1.1997, p. 1.

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- having regard to Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (the Public Procurement Directive) ⁽¹⁾,
- having regard to the 'Monti' clause of Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States ⁽²⁾,
- having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market ⁽³⁾ (the Services Directive),
- having regard to the judgments of the Court of Justice of the European Communities (the ECJ) of 27 March 1990 in Case C-113/89 *Rush Portuguesa Ltd v Office Nationale d'Immigration* ⁽⁴⁾,
- having regard to the judgments of the ECJ of 9 August 1994 in Case C-43/93 *Vander Elst* ⁽⁵⁾, of 23 November 1999 in Joined Cases C-369/96 and 376/96 *Arblade* ⁽⁶⁾, of 25 October 2001 in Joined Cases C-49/98, C-50/98, C-52/98, C-54/98, C-68/98 and C-71/98 *Finalarte* ⁽⁷⁾, of 7 February 2002 in Case C-279/00 *Commission v Italy* ⁽⁸⁾, of 12 October 2004 in Case C-60/03 *Wolff & Müller GmbH* ⁽⁹⁾, of 21 October 2004 in Case C-445/03 *Commission v Luxembourg* ⁽¹⁰⁾, and of 19 January 2006 in Case C-244/04 *Commission v Germany* ⁽¹¹⁾,
- having regard to the judgment of the ECJ of 11 December 2007 in Case C-438/05 *International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP* ⁽¹²⁾ (the Viking case),
- having regard to the judgment of the ECJ of 18 December 2007 in Case C-341/05 *Laval un Partneri Ltd* ⁽¹³⁾,
- having regard to the judgment of the ECJ of 3 April 2008 in Case C-346/06 *Rüffert* ⁽¹⁴⁾,
- having regard to the following International Labour Organisation (ILO) Conventions: ILO-94 Labour Clauses (Public Contracts); ILO-87 Freedom of Association and Protection of the Right to Organise; ILO-98 Right to organise and collective bargaining; ILO-117 Basic Aims and Standards of Social Policy, especially Part IV; ILO-154 Collective Bargaining,
- having regard to its resolution of 26 October 2006 on the application of Directive 96/71/EC on the posting of workers ⁽¹⁵⁾,
- having regard to its resolution of 15 January 2004 on the implementation of Directive 96/71/EC in the Member States ⁽¹⁶⁾,
- having regard to its resolution of 23 May 2007 on promoting decent work for all ⁽¹⁷⁾,
- having regard to the Common Principles of Flexicurity, endorsed by the European Council on 14 December 2007 as well as Parliament's resolution of 29 November 2007 on Common Principles of Flexicurity ⁽¹⁸⁾,

⁽¹⁾ OJ L 134, 30.4.2004, p. 114.

⁽²⁾ OJ L 337, 12.12.1998, p. 8.

⁽³⁾ OJ L 376, 27.12.2006, p. 36.

⁽⁴⁾ [1990] ECR I-1470.

⁽⁵⁾ [1994] ECR I-3803.

⁽⁶⁾ [1999] ECR I-8453.

⁽⁷⁾ [2001] ECR I-7831.

⁽⁸⁾ [2002] ECR I-1425.

⁽⁹⁾ [2004] ECR I-9553.

⁽¹⁰⁾ [2004] ECR I-10191.

⁽¹¹⁾ [2006] ECR I-885.

⁽¹²⁾ [2007] ECR I-10779.

⁽¹³⁾ [2007] ECR I-11767.

⁽¹⁴⁾ Not yet published in the European Court Reports.

⁽¹⁵⁾ OJ C 313 E, 20.12.2006, p. 452.

⁽¹⁶⁾ OJ C 92 E, 16.4.2004, p. 404.

⁽¹⁷⁾ OJ C 102 E, 24.4.2008, p. 321.

⁽¹⁸⁾ Texts Adopted, P6_TA(2007)0574.

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- having regard to Article 45 of its Rules of Procedure,

- having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Legal Affairs and the Committee on the Internal Market and Consumer Protection (A6-0370/2008),

- A. whereas the EC Treaty acknowledges the fundamental rights laid down in the Charter of Fundamental Rights of the European Union, in the constitutions of the Member States and in different international treaties and conventions, as basic references in Community law and practice,

- B. whereas the EC Treaty lays down a number of relevant principles; whereas one of the main purposes of the Community is an internal market with a social dimension, characterised by the abolition, between Member States, of obstacles to the free movement of goods, persons, services and capital,

- C. whereas one of these principles is the recognition of citizens' basic constitutional rights, including the right to form trade unions, the right to strike and the right to negotiate collective agreements,

- D. whereas the fundamental principles of the internal market include freedom of movement for workers, freedom of establishment and freedom to provide services,

- E. whereas, according to Article 39 of the EC Treaty, freedom of movement for workers entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment,

- F. whereas restrictions on fundamental freedoms are possible under the EC Treaty, if they pursue legitimate aims compatible with the Treaty, are justified by overriding reasons of public interest, are appropriate to achieve the objectives pursued and do not go beyond what is necessary to achieve those objectives; whereas at the same time, according to Article 52 of the Charter of Fundamental Rights of the European Union, any limitations on the exercise of the rights and freedoms recognised by that Charter may be made only if they are proportionate and necessary and if they genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others,

- G. whereas the ECJ recognizes the right to take collective action as a fundamental right that is an integral part of the general principles of Community law; whereas this right will also be enshrined in the Treaties if the Lisbon Treaty is ratified,

- H. whereas the Commission has on several occasions stressed the importance of the existing national framework of employment legislation and collective bargaining for the protection of workers' rights,

- I. whereas the Commission's Report entitled *Industrial relations in Europe 2006* concludes that highly developed collective bargaining can have a positive influence on social inclusion,

- J. whereas according to Article 136 of the EC Treaty, the Community and the Member States 'shall have as their objectives ... improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained'; and whereas with a view to achieving this objective, Article 140 of the EC Treaty provides that the Commission is to promote close cooperation between Member States in the social policy field, particularly in matters relating to the right of association and collective bargaining between employers and workers,

- K. whereas, according to the preamble of the PWD, the promotion of the transnational provision of services requires conditions of free and fair competition and measures guaranteeing respect for the rights of workers and in accordance with the legal framework relating to national employment law and industrial relations in the Member States,

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- L. whereas the PWD clearly states in recital 12 that ‘Community law does not preclude Member States from applying their national legislation, or collective agreements entered into by employers and labour, to any person who is employed, even temporarily, within their territory, although his employer is established in another Member State’ and that ‘Community law does not forbid Member States to guarantee the observance of those rules by the appropriate means’,
- M. whereas the objective of the PWD — to provide a climate of fair competition and measures guaranteeing respect for the rights of workers — is important, in an era in which the transnational provision of services is expanding, for the protection of the workers concerned, while respecting the framework of employment law and industrial relations in the Member States, provided that Community legislation is not thereby infringed,
- N. whereas, according to the PWD, the laws of the Member States must lay down a nucleus of mandatory rules for minimum protection of posted workers to be observed in the host country without preventing the application of terms and conditions of employment more favourable to workers,
- O. whereas Article 3(8) of the PWD allows the Directive to be implemented either through legislation or through collective agreements which have been declared universally applicable, or which are generally applicable to all similar undertakings in the industry concerned or which have been concluded by the most representative employers’ and labour organisations at national level and which are applied throughout the national territory; whereas the ECJ also affirms that since the purpose of the PWD is not to harmonise systems for establishing terms and conditions of employment, Member States are free to choose a system at national level which is not expressly mentioned among those provided for in the PWD,
- P. whereas the nucleus provisions in Article 3(1) of the PWD consist of international mandatory rules which the Member States have commonly agreed upon; whereas the public order provisions in Article 3(10) also consist of international mandatory rules but are framed in such a way that Member States have discretion in terms of their definition in national legislation; whereas the use of Article 3(10) is important for Member States as it enables them to consider a variety of labour market, social policy and other concerns including protection of workers, whilst respecting the principle of equal treatment,
- Q. whereas mobility of workers has greatly contributed to employment, prosperity and EU integration, giving citizens new opportunities to develop knowledge and experience and to attain better living standards,
- R. whereas Article 28 of the Charter of Fundamental Rights of the European Union codifies the right of collective bargaining and collective action,
- S. whereas the PWD has given the opportunity to more than a million workers to work abroad under safe and secure conditions without problems or conflicts,
- T. whereas uniform application and enforcement of the provisions of the PWD are essential to achieving its objectives, in particular respect for collective bargaining arrangements existing in the Member States,
- U. whereas Article 3(1)(a) of the Services Directive clearly indicates that it is not intended to replace, and is without prejudice to, the PWD,
- V. whereas in relation to the free movement of goods the following clause (known as the ‘Monti clause’) was included in Regulation (EC) No 2679/98: Article 2: ‘This Regulation may not be interpreted as affecting in any way the exercise of fundamental rights as recognised in Member States, including the right or freedom to strike. These rights may also include the right or freedom to take other actions covered by the specific industrial relations systems in Member States’,

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- W. whereas Article 1(7) of the Services Directive provides that: 'This Directive does not affect the exercise of fundamental rights as recognised in the Member States and by Community law. Nor does it affect the right to negotiate, conclude and enforce collective agreements and to take industrial action in accordance with national law and practices which respect Community law',
- X. whereas the European Council has established principles to create labour market models that have, in addition to a high level of security, a high level of flexibility, (known as 'the flexicurity model'); whereas it is recognised that an important part of a successful flexicurity model includes strong social partners with significant scope for collective bargaining,
- Y. whereas it is the role of the ECJ to interpret Community law in the light of fundamental rights and freedoms and to ensure that in the interpretation and application of the EC Treaty the law is respected,
- Z. whereas it is for national courts to ascertain, on a case-by-case basis, whether the criteria regarding the restriction of fundamental freedoms and their compatibility with Community law are fulfilled,
- AA. whereas the right to take collective action and to conclude collective agreements is a fundamental right which forms an integral part of the general principles of Community law; whereas in that context the ECJ should not rely on a statement of the Council and the Commission dated 24 September 1996 that has not been adopted by Parliament (as co-legislator) which would restrict the interpretation of the concepts of 'public policy provisions' and 'national provisions crucial to political order' merely to mandatory rules laid down in legislation,
- AB. whereas the judgment of the ECJ of 21 September 1999 in Case C-67/96 *Albany International BV* ⁽¹⁾, in the field of competition law gave trade unions a significant degree of discretion regarding labour market issues,
- AC. whereas it has been noted that differing views and interpretations existed within the ECJ and between the Court and its Advocates-General in the various cases relating to the PWD, in particular in the abovementioned *Laval* and *Ruffert* cases; whereas when such views and interpretations differ, there may be a case for clarification of the balance between fundamental rights and freedoms,
1. Emphasises that freedom to provide services is one of the cornerstones of the European project; considers however, this should be balanced, on the one hand, against fundamental rights and the social objectives set out in the Treaties and on the other hand, against the right of the public and social partners to ensure non-discrimination, equal treatment, and the improvement of living and working conditions; recalls that collective bargaining and collective action are fundamental rights that are recognised by the Charter of Fundamental Rights of the European Union and that equal treatment is a fundamental principle of the European Union;
2. Is of the opinion that any EU citizen should have the right to work anywhere in the European Union and thus should have a right to equal treatment; therefore regrets that this right is not applied uniformly across the EU; is of the view that transitional arrangements remaining in place should be subject to rigorous review by the Commission, to assess whether they are truly necessary to prevent distortions in national labour markets and, that where that is not found to be the case, they should be removed as quickly as possible;
3. Emphasises that freedom to provide services does not contradict and is not superior to the fundamental right of social partners to promote social dialogue and to take industrial action, in particular since this is a constitutional right in several Member States; stresses that the intention of the Monti clause was to protect fundamental constitutional rights in the context of the internal market; recalls at the same time that free movement of workers is one of the four freedoms of the internal market;

⁽¹⁾ [1999] ECR I-5751.

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4. Welcomes the Lisbon Treaty and the fact that the Charter of Fundamental Rights of the European Union is to be made legally binding; notes that this would include the right of trade unions to negotiate and conclude collective agreements at the appropriate levels and, in the case of conflicts of interest, to take collective action (such as strike action) to defend their interests;

5. Emphasises that freedom to provide services is not superior to the fundamental rights contained in the Charter of Fundamental Rights of the European Union and in particular the right of trade unions to take industrial action, in particular since this is a constitutional right in several Member States; emphasises therefore that the abovementioned ECJ rulings in *Rüffert*, *Laval* and *Viking* demonstrate that it is necessary to clarify that economic freedoms, as established in the Treaties, should be interpreted in such a way as not to infringe upon the exercise of fundamental social rights as recognised in the Member States and by Community law, including the right to negotiate, conclude and enforce collective agreements and to take collective action, and as not infringing upon the autonomy of social partners when exercising these fundamental rights in pursuit of social interests and the protection of workers;

6. Stresses that the PWD allows public authorities and social partners to lay down terms and conditions of employment which are more favourable to workers according to the different traditions in the Member States;

7. Stresses that recital 22 of the PWD states that the Directive is without prejudice to the law of the Member States concerning collective action to defend the interests of trades and professions which is confirmed by Article 137(5) of the EC Treaty;

8. Emphasises therefore the need to safeguard and to strengthen equal treatment and equal pay for equal work in the same workplace as laid down in Articles 39 and 12 of the EC Treaty; considers that in the framework of freedom to provide services or freedom of establishment, the nationality of the employer, or of employees or posted workers cannot justify inequalities concerning working conditions, pay or the exercise of fundamental rights such as the right to strike;

9. Underlines the importance of preventing negative effects on labour market models that are already able to combine a high degree of flexibility in the labour market with a high level of security and, instead, of promoting this approach further;

General impact

10. Notes that the horizontal effect of certain provisions of the EC Treaty depends on precise conditions being fulfilled, inter alia the condition that those provisions confer rights on an individual who has an interest in compliance with the obligations concerned; expresses its concern that, in the specific circumstances of the judgements recently given by the ECJ, the horizontal effect of Article 43 of the EC Treaty was duly identified, and considers that this might result in more cases before the ECJ;

11. Welcomes the fact that, according to the principles and traditions of the European Union, many Member States, in cooperation with social partners, have put in place high standards of working conditions that improve the well-being of all workers and enhance economic growth as well as competitiveness;

12. Believes that the intention of the legislator in the PWD and Services Directive is incompatible with interpretations which may invite unfair competition between undertakings; notes that undertakings that sign and follow collective agreements could have a competitive disadvantage over undertakings that refuse to do so;

13. Considers that correct application and enforcement of the provisions of the PWD are essential to secure the attainment of its objectives, namely to facilitate the provision of services while guaranteeing the appropriate protection of workers, and to fully respect collective bargaining arrangements existing in the Member States to which workers are posted within the framework of that Directive;

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14. Also takes the view that the freedom to provide cross border services in the internal market is further enhanced by ensuring that domestic and foreign service providers face similar economic and labour market conditions at the place of service delivery;
15. Actively promotes competitiveness on the basis of knowledge and innovation as laid down in the Lisbon Strategy;
16. Questions the introduction of a proportionality principle for actions against undertakings which, by relying on the right of establishment or the right to provide services across borders, deliberately undercut terms and conditions of employment; considers that there should be no question as to the use of industrial action to uphold equal treatment and to secure decent working conditions;
17. Emphasises that the EU's economic freedoms cannot be interpreted as granting undertakings the right to evade or circumvent national social and employment laws and practices, or to impose unfair competition on wages and working conditions; considers therefore that cross border actions of undertakings which may undercut terms and conditions of employment in the host country must be proportionate and cannot automatically be justified by the EC Treaty provisions on, for example, free movement of services or freedom of establishment;
18. Emphasises that Community law has to respect the principle of non discrimination; emphasises further that the Community legislator has to ensure that no obstacles are created either to collective agreements, for example, those implementing the principle of equal pay for equal work for all workers in the workplace, regardless of their nationality or that of their employer, in the place where the service is provided, or to industrial action in support of such an agreement which is in accordance with national laws or practice;
19. Acknowledges that the ECJ rulings in the abovementioned *Laval*, *Rüffert* and *Luxembourg* cases have caused significant concern regarding the way in which minimum harmonisation directives must be interpreted;
20. Notes that the social considerations referred to in Articles 26 and 27 of the Public Procurement Directive enable the Member States to create fair competition conditions by laying down terms and conditions of employment which go beyond the mandatory rules for minimum protection;
21. Is of the opinion that the limited legal basis of free movement of the PWD may lead to the PWD being interpreted as an express invitation to unfair competition concerning wages and working conditions; therefore considers that the legal basis of the PWD could be broadened to include a reference to the free movement of workers;
22. Emphasises that the current situation might as a result lead to workers in host countries feeling pressured by low wage competition; considers therefore that consistent implementation of the PWD must be ensured in all Member States;
23. Recalls that nine Member States have ratified ILO Convention 94; regrets that even judicial rulings fail sufficiently to take into consideration ILO convention 94 and is worried that the application of this Convention in the Member States concerned might be in conflict with the application of the PWD; calls on the Commission to clarify this situation as a matter of urgency and to continue to promote the ratification of this Convention in order to enhance further the development of social clauses in public procurement regulations, which itself is an aim of the Public Procurement Directive;
24. Notes that it has not been recognised that, under the ILO conventions 87 and 98, restrictions on the right to industrial action and fundamental rights can only be justified on grounds of health, public order and other similar factors;

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Demands

25. Calls on all Member States properly to enforce the PWD; further emphasises that labour market legislation and rules concerning negotiations and collective agreements are the competence of Member States and social partners; points out, in this respect, that it is the task of the Member States to improve and to make full use of prevention, monitoring and enforcement measures, in conformity with the subsidiarity principle;

26. Considers that current Community legislation has both loopholes and inconsistencies and therefore may have lent itself to interpretations of the PWD that were not the intention of the Community legislator, who was looking for a fair balance between the freedom to provide services and the protection of workers rights; calls on the Commission to prepare the necessary legislative proposals which would assist in preventing conflicting interpretation in the future;

27. Therefore welcomes the statement of 3 April 2008 in which the Commission committed itself not only to continue to tackle competition that is based on low social standards but also emphasised that freedom to provide services does not contradict and is not in any way superior to the fundamental right to strike, and to join a trade union; encourages the implementation of the Council Conclusions of 9 June 2008 without delay to remedy shortcomings in the implementation, to prevent further problematic situations and abuses and to create the desired climate of mutual trust and confidence; calls on the Commission and the Member States to foster closer cooperation between the Member States, national authorities and the Commission with regard to monitoring and the exchange of best practice; considers that this would be an effective way to combat misuse;

28. Notes that it is important that the rules on the EU labour market are transparent and equivalent for all, but also that different political traditions make it very difficult to achieve a single labour market model; therefore considers that, where certain Member States are particularly affected, a detailed impact assessment of the abovementioned judgments should be carried out at national level in consultation with the social partners;

29. Welcomes the Commission's indication that it is now ready to re-examine the impact of the internal market on labour rights and collective bargaining;

30. Suggests that this should not exclude a partial review of the PWD; considers that any review of that Directive should be done after a thorough analysis at national level of the actual challenges to the different models of collective agreement, and that the review, if deemed useful, should deal in particular with issues such as applicable working conditions, pay levels, the principle of equal treatment of workers in the context of free movement of services, respect for different labour models and the duration of posting;

31. Believes that the exercise of fundamental rights as recognised in the Member States, in ILO Conventions and in the Charter of Fundamental Rights of the European Union, including the right to negotiate, conclude and enforce collective agreements and the right to take industrial action should not be put at risk;

32. Emphasises that it must be made absolutely clear that the PWD and other directives do not prohibit Member States and social partners from demanding more favourable conditions, aimed at equal treatment of workers, and that there are assurances that Community legislation can be implemented on the basis of all the existing labour market models;

33. Calls on the Commission to implement the decisions of the Council regarding the establishment of an electronic system for exchange of information as a matter of urgency as it could enable Member States to combat abuses more effectively;

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34. Asks the Member States and the Commission to adopt measures to combat abuses, in particular regarding activities of those 'letterbox-companies' which are not engaged in any genuine and effective business in the country of establishment but which have been created, sometimes even directly by the main contractor in the host country, for the sole purpose of carrying out business in the host country, in order to circumvent the full application of host country rules and regulations in particular with regard to wages and working conditions; calls on the Commission to lay down clear rules to combat 'letterbox companies' in its code of conduct for undertakings under the Services Directive;

35. Reaffirms that fundamental social rights are not subordinate to economic rights in a hierarchy of fundamental freedoms; therefore asks for a re-assertion in primary law of the balance between fundamental rights and economic freedoms in order to help avoid a race to lower social standards;

36. Welcomes the common position of the Council on a new Directive on Temporary Agency Work, which would provide for non-discriminatory treatment from the first day of employment unless the social partners agree otherwise;

37. Calls on the Commission to put forward the long awaited Communication on transnational collective bargaining proposing the establishment of a legal framework for transnational collective agreements;

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38. Instructs its President to forward this resolution to the Council and the Commission, and the governments and parliaments of the Member States.

Democracy, human rights and the new EU-Vietnam Partnership and Cooperation Agreement

P6_TA(2008)0514

European Parliament resolution of 22 October 2008 on democracy, human rights and the new EU-Vietnam Partnership and Cooperation Agreement

(2010/C 15 E/11)

The European Parliament,

- having regard to its previous resolutions on Vietnam,
 - having regard to the 1995 Cooperation Agreement between the European Community and the Socialist Republic of Vietnam,
 - having regard to the International Covenant on Civil and Political Rights, ratified by Vietnam in 1982,
 - having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas the second round of talks between the EU and Vietnam was held in Hanoi on 20-21 October 2008,
- B. whereas a hearing on Vietnam, Laos and Cambodia was held by Parliament's Subcommittee on Human Rights on 25 August 2008,
- C. whereas the next meeting within the framework of the human rights dialogue between the EU Troika and Vietnam is scheduled for December 2008,

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- D. whereas Article 1 of the Cooperation Agreement between the European Community and the Socialist Republic of Vietnam states: 'Respect for human rights and democratic principles is the basis for the cooperation between the Parties and for the provisions of this Agreement, and it constitutes an essential element of the Agreement',
- E. whereas in Vietnam freedom of assembly is severely restricted: in September 2008 the Vietnamese Government launched its harshest crackdown in decades on peaceful Catholic protesters participating in prayer vigils in Hanoi to demand the return of church properties confiscated by the Vietnamese Government,
- F. whereas in Vietnam press freedom is severely restricted: in 2008, several Vietnamese journalists have been arrested or penalised for reporting on official corruption, and on 19 September 2008 the Associated Press Hanoi bureau chief Ben Stocking was arrested and beaten by police for covering a peaceful rally of Vietnamese Catholics in Hanoi,
- G. whereas the ethnic minorities of the Northern and Central Highlands are still subjected to discrimination, confiscation of their land and violation of their religious and cultural freedoms; whereas neither independent non-governmental organisations nor foreign journalists have unfettered access to the Central Highlands in order to assess the real situation of the Montagnards, in particular those forcibly repatriated from Cambodia; whereas more than 300 Montagnards have been sentenced to imprisonment since 2001 for peaceful political or religious activities,
- H. whereas, in spite of constant and repeated appeals from the international community, the supreme patriarch of the Unified Buddhist Church of Vietnam, Thích Qung Đ (79 years old), winner of the 2006 Rafto Prize for human rights defenders, has been imprisoned numerous times since 1982 and still remains under effective house arrest,
- I. whereas the Vietnamese Government has still not recognised the Unified Buddhist Church of Vietnam, the largest organisation of Buddhists in Vietnam,
- J. whereas Vietnam has implemented legislation to limit freedom of internet access, with filtering and content controls, and has carried out arrests of numerous 'cyber-dissidents' for using the internet to disseminate their views on human rights and democracy or participating in online democracy discussions; whereas on 10 September 2008 internet writer and democracy activist Nguyen Hoang Hai, known by his pen-name Điu Cày, was sentenced to imprisonment,
- K. whereas members of the ethnic Khmer minority (Khmer Krom) in southern Vietnam have suffered religious persecution and land confiscation; whereas the authorities defrocked approximately 20 Khmer Krom Buddhist monks for their participation in a peaceful protest in February 2007 calling for greater religious freedom, and sentenced five to imprisonment; whereas the Vietnamese authorities have placed Khmer Krom monk Tim Sakhorn under house arrest following his release from prison in June 2008; whereas the authorities have used excessive force against Khmer Krom farmers petitioning for resolution of land conflicts,
1. Stresses that the human rights dialogue between the EU and Vietnam must lead to tangible improvements in Vietnam; asks the Council and the Commission to reassess the cooperation policy with Vietnam, bearing in mind Article 1 of the 1995 Cooperation Agreement, which states that cooperation is based on respect for human rights and democratic principles;
 2. Calls on the Commission to establish clear benchmarks for the evaluation of the current development projects in Vietnam in order to ensure their compliance with the human rights and democracy clause contained in the abovementioned Agreement;

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3. Calls on the Commission and the Council, within the framework of the ongoing negotiations for a new Partnership and Cooperation Agreement between the EU and Vietnam, which will include a clear human rights and democracy clause accompanied by a mechanism for the implementation of that clause, to raise with the Vietnamese side the need to stop the current systematic violation of democracy and human rights before the finalisation of the Agreement and, in particular, to ask the Vietnamese Government:
- as a member of the UN Security Council, to actively cooperate with UN human rights mechanisms, by inviting the Special Rapporteur on freedom of religion or belief, who last visited Vietnam in 1998, and the Working Group on Arbitrary Detention, which last visited Vietnam in 1994, to visit Vietnam; and to provide UN officials and Special Rapporteurs with unrestricted access to all regions, including the Central and Northern Highlands, where they should be allowed to conduct confidential interviews with political and religious prisoners and detainees, as well as with Montagnard asylum seekers returned to Vietnam from Cambodia;
 - to immediately release all people imprisoned or detained for the peaceful expression of political or religious beliefs, including more than 300 Montagnard Christians, as well as Khmer Krom Buddhist monks, democracy activists, land rights petitioners, cyber-dissidents, trade union leaders, Catholic parishioners, and followers of Hòa Hô Buddhism and the Cao Đài religion;
 - to immediately provide full freedom from house arrest to Thích Qung Đ and Tim Sakhorn;
 - to allow independent religious organisations to freely conduct religious activities without government interference and allow those religious organisations to independently register with the government if they choose to do so; to return church properties and pagodas confiscated by the Vietnamese Government and to re-establish the legal status of the Unified Buddhist Church of Vietnam;
 - to repeal provisions in Vietnamese law that criminalise dissent and certain religious activities on the basis of imprecisely defined 'national security' crimes, and to ensure that those laws cannot be applied against persons who have exercised their basic rights to freedom of expression, assembly, association and religious belief;
 - to end the Vietnamese Government's censorship and control over the domestic media, including the internet and electronic communications, and authorise the publication of independent, privately-run newspapers and magazines;
4. Instructs its President to forward this resolution to the Council, the Commission, the governments of the ASEAN member countries, the United Nations Secretary-General, the United Nations High Commissioner for Human Rights and the Government and Parliament of Vietnam.
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Piracy at sea

P6_TA(2008)0519

European Parliament resolution of 23 October 2008 on piracy at sea

(2010/C 15 E/12)

The European Parliament,

- having regard to its resolution of 20 May 2008 on an integrated maritime policy for the European Union ⁽¹⁾,
 - having regard to its resolution of 19 June 2008 on the routine killing of civilians in Somalia ⁽²⁾,
 - having regard to the conclusions of the General Affairs Council meeting of 15 September 2008 (13028/2008),
 - having regard to the conclusions of the External Relations Council meeting of 26 May 2008 (9868/2008),
 - having regard to Council Joint Action 2008/749/CFSP of 19 September 2008 on the European Union military coordination action in support of UN Security Council Resolutions 1816(2008) (EU NAVCO) ⁽³⁾, and to UN Security Council Resolution 1838(2008),
 - having regard to the 1988 United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,
 - having regard to UN Security Council Resolutions 1814(2008) of 15 May 2008 and 1816(2008) of 2 June 2008 on the situation in Somalia,
 - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas piracy on the high seas represents a growing threat to human life and safety, particularly in the seas off Somalia and the Horn of Africa, including to humanitarian aid to some 3 500 000 people who need assistance,
- B. whereas there have already been complaints concerning an increase in piracy in other parts of the world, such as the Mozambique Channel, some areas off the coast of India, and the Caribbean,
- C. whereas the continuing conflict and political instability in Somalia have given rise to acts of piracy and armed robbery,
- D. whereas in the last year criminal assaults against Community fishing, merchant and passenger vessels in international waters near the African coasts have increased in number and frequency, posing a risk to the lives of the crew and having a significant negative impact on international trade,
- E. whereas the unhindered passage of vessels plying their trade legally on the high seas is an absolute precondition for international commerce,
- F. whereas such piracy is an immediate threat to mariners, whose livelihood depends on the safe and lawful exercise of their trade and profession at sea,

⁽¹⁾ Texts Adopted, P6_TA(2008)0213.

⁽²⁾ Texts Adopted, P6_TA(2008)0313.

⁽³⁾ OJ L 252, 20.9.2008, p. 39.

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- G. whereas EU fishermen on the high seas have been targeted by pirates and the threat of piracy has led a significant number of EU fishing vessels to withdraw from seas hundreds of kilometres from the Somali coast or to reduce their fishing activity in the region,
- H. whereas a number of victims of piracy have been ordinary citizens peacefully pursuing their activities on board leisure craft in the seas off the Horn of Africa,
- I. whereas such piracy in part results from but also contributes to violence and political instability in Somalia, and has a knock-on effect on the rest of the Horn region, and its concomitant consequences for the civilian population of Somalia in terms of exposure to threats, lack of development and interruptions to food aid and other humanitarian efforts,
- J. whereas in 2007 it was reported that 20 crew members were murdered, 153 wounded or assaulted and 194 kidnapped,
- K. whereas, in response to the worsening of that phenomenon, the UN Security Council is currently working on a new resolution aimed at harnessing the support of the international community for a more effective implementation of existing suppression and prevention instruments, within the framework of maritime law and the UN Security Council's resolutions;
1. Calls on the Transitional Federal Government of Somalia, in collaboration with the UN and the African Union, to treat piracy and armed robbery committed from the Somali coast against vessels carrying humanitarian aid as criminal acts to be pursued by arresting the perpetrators under existing international law;
 2. Takes note of Council Joint Action 2008/749/CFSP, which establishes a military coordination action in support of UN Security Council Resolution 1816(2008) named EU NAVCO;
 3. Calls on the Member States sitting on the UN Security Council to renew the authorisations granted in Resolution 1816(2008), in line with the intention set out in Resolution 1838(2008);
 4. Calls on the Commission to seek ways to provide protection against piracy for EU-flagged and other fishing vessels that operate in international waters in the north-western Indian Ocean, possibly through cooperation with the Indian Ocean Tuna Commission;
 5. Regrets the lack of consultation by the Council of the European Parliament on the decision to launch this European Security and Defence Policy (ESDP) operation and urges the Council to provide information to the Parliament about the scope of this action and the exact tasks that the 'EU Coordination Cell' in the European Council will undertake in support of the ESDP maritime mission: EU NAVCO;
 6. Calls on the Council to clearly distinguish between the future ESDP mandate and the anti-piracy tasks performed by its Member States within the framework of Operation Enduring Freedom-Horn of Africa, aimed at countering terrorist activities; requests clear guidelines for detention and prosecution of captured pirates; calls on the Council to avoid any involvement of EU NAVCO in the ongoing conflict in Somalia; calls for effective coordination with other naval vessels in the region, especially those of the USA and Russia;
 7. Urges the Council and the Commission to seek to ensure that the International Maritime Organisation's (IMO) legal instruments dealing with piracy and armed robbery are reviewed and updated as soon as possible, with a view to prosecuting and passing sentence on the perpetrators of such crimes;
 8. Calls on the Council and the Commission to encourage coastal states and all Member States to ratify the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;

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9. Invites those Member States that have not yet done so to transpose into their domestic law the relevant provisions of the UN Convention on the Law of the Sea and the UN Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, which enable jurisdiction to be clearly established and thus to ensure the absolute legal certainty of criminal proceedings following the capture of pirates or perpetrators of armed attacks at sea;
10. Welcomes the Commission's intention to improve coordination with the European agencies responsible for maritime surveillance, underlining especially the prevention of illegal activities (human and drug trafficking and illegal immigration) with a special focus on international waters; urges the Council not to equate the challenge of terrorism with the issues of illegal immigration and human and drug trafficking;
11. Welcomes the Commission's initiative to promote negotiations for better management of the maritime space with third countries and strongly supports the increased cooperation with neighbouring countries for the protection of seas beyond national jurisdictions;
12. Condemns categorically the trade in weapons and ammunition with organised bands that commit acts of piracy; asks the competent international organisations to recommend suitable measures for preventing weapons from reaching the hands of such pirate groups;
13. Calls on the Commission to provide information to the Parliament about any decisions it might take about funding projects relating to critical maritime routes in the Horn of Africa, the straits of the Bab al Mandab and the Gulf of Aden;
14. Calls on the Commission to consider how practical support might be given to the IMO's Sana'a/Dar es Salaam Agenda and in particular to the establishment of a Regional Maritime Information Centre or system in connection with this;
15. Welcomes the progress made by the European Council in the preparation of a European Union naval operation against piracy, aimed at guaranteeing the safety of cargo ships transiting a shipping channel in the Gulf of Aden;
16. Regrets that the action taken by the Council does not cover the region's fishing areas, and calls for swift action to be taken to that effect;
17. Asks the Commission to set up, in the framework of the new Integrated Maritime Policy, a Community system for mutual cooperation and coordination that would allow naval vessels flying the flag of a Member State deployed in international waters to protect fishing and merchant vessels from other Member States, at the earliest possible opportunity;
18. Welcomes, therefore, the adoption of an amendment at Parliament's first reading of the Union's general budget 2009 aimed at establishing a new budget line to finance a pilot project to examine the possibility of funding, managing and coordinating a Community action plan to protect Community vessels transiting through or operating in areas threatened by international piracy;
19. Urges the Commission and the Member States to support actively, in the framework of the UN and the IMO, the initiative promoted by several Member States to extend the right of sea and air pursuit to the territorial waters of the coastal states, provided that the countries concerned agree, as well as to develop a mechanism for coordinated assistance against cases of maritime piracy; also calls on the Commission and Member States to work actively to ensure the adoption of a new UN Security Council resolution, since UN Security Council Resolution 1816(2008) will expire on 2 December 2008;

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20. Hopes that, in parallel to ensuring the safety of convoys and exercising the right of pursuit vis-à-vis their aggressors, the Commission and the United Nations do not neglect the path of political cooperation and normalisation with the states of the region concerned, in order to enable them to better prevent and combat crime at sea and its many root causes;
21. Calls on the Council and Member States to explain the objectives of the EU military naval operation within the framework of United Nations Security Council Resolution 1816(2008) to suppress armed robbery and piracy off the coasts of Somalia; acknowledges that UN Security Council Resolution 1816(2008) and 1838(2008) were drafted under Chapter VII of the UN Charter as the only way to legitimatise the use of force; stresses, nevertheless, that under no circumstances should acts of piracy or acts against piracy be considered to be acts of war; urges the European Council to deal with piracy as a criminal act under existing international law;
22. Calls on the Council to do everything in its power to identify and dismantle the organised criminal networks that reap the profits of such acts;
23. Calls on the Commission and the international community to deploy all the necessary human and financial resources to help establish a stable democratic regime in Somalia, in the interests of effectively combating piracy on the high seas in the long term;
24. Invites the Council and Member States to adopt clear and legally incontrovertible rules of engagement for the naval forces engaged in those operations;
25. Instructs its President to forward this resolution to the Council and the Commission.

Equivalence of accounting standards

P6_TA(2008)0520

European Parliament resolution of 23 October 2008 on the draft Commission regulation of 2 June 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements and on the draft Commission decision of 2 June 2008 on the use by third-country issuers of securities of certain third-country national accounting standards and international financial reporting standards to prepare their consolidated financial statements

(2010/C 15 E/13)

The European Parliament,

- having regard to Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading ⁽¹⁾, in particular Article 7(1) thereof,
- having regard to Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market ⁽²⁾, in particular the third subparagraph of Article 23(4) thereof,
- having regard to Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards ⁽³⁾,
- having regard to Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council ⁽⁴⁾,

⁽¹⁾ OJ L 345, 31.12.2003, p. 64.

⁽²⁾ OJ L 390, 31.12.2004, p. 38.

⁽³⁾ OJ L 243, 11.9.2002, p. 1.

⁽⁴⁾ OJ L 340, 22.12.2007, p. 66.

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- having regard to the draft Commission regulation of 2 June 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements,
- having regard to the draft Commission decision of 2 June 2008 on the use by third-country issuers of securities of certain third-country national accounting standards and international financial reporting standards to prepare their consolidated financial statements,
- having regard to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,
- having regard to its resolution of 14 November 2007 on the draft Commission regulation amending Regulation (EC) No 809/2004 as regards the accounting standards in accordance with which historical information contained in prospectuses is drawn up and on the draft Commission decision on the use by third-country issuers of securities of information prepared under internationally accepted accounting standards ⁽²⁾,
- having regard to Rule 81 of its Rules of Procedure,

As regards the draft regulation and draft decision

1. Notes the progress achieved by the Commission towards the elimination of reconciliation requirements for EU issuers in third countries; acknowledges that steps have been taken towards the recognition of US Generally Accepted Accounting Principles (US GAAP) and International Financial Reporting Standards (IFRS) as adopted by the EU;
2. Takes the view that third-country Generally Accepted Accounting Principles (third-country GAAP) should be considered equivalent to IFRS as adopted pursuant to Regulation (EC) No 1606/2002 in the event that investors are able to make similar decisions irrespective of whether they are provided with financial statements in accordance with IFRS or on third-country GAAP and in the event that audit assurance and enforcement at entity level are sufficient for investors to rely on;
3. Considers that regulators should maintain an active dialogue with their international counterparts regarding the application and consistent enforcement of IFRS and enhance cooperation and information-sharing;
4. Notes that IFRS that are issued by the International Accounting Standards Board (IASB) provide a solid basis for the regulators to work towards the convergence of accounting standards globally; takes the view that the worldwide application of international accounting standards could improve the transparency and comparability of financial statements, thus bringing substantial benefits to companies and investors;
5. Believes that bringing about the convergence of accounting standards is an important task, but underlines that the ultimate goal must be for each jurisdiction to adopt IFRS whilst respecting its own democratic and legal framework;
6. Welcomes Regulation (EC) No 1569/2007, which provides for the definition of equivalence and establishes a mechanism for determining the equivalence of third-country GAAP; underlines that Regulation (EC) No 1569/2007 requires that the Commission decision permit Community issuers to use IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the third country concerned;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ Texts Adopted, P6_TA(2007)0527.

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7. Notes that the US recognises only financial statements prepared under IFRS as issued by the IASB; acknowledges, however, that the US allows a short transition period during which financial statements prepared in accordance with IFRS adopted under Regulation (EC) No 1606/2002 are also accepted without reconciliation requirements;
8. Emphasises that certain third countries have not yet clearly and publicly stated when IFRS will be applied to their domestic issuers;
9. Considers that the draft Commission regulation and the draft Commission decision must be consistent with the conditions provided for in Regulation (EC) No 1569/2007 and this resolution;
10. Welcomes the roadmaps recently presented by certain third countries concerning a switch to IFRS; calls on the Commission to monitor the progress made with the implementation of those roadmaps with a view to abolishing recognition of equivalence when predetermined changeover dates are reached;
11. Notes that proposals have been made to develop governance by the IASB;
12. Notes the Commission report of 22 April 2008 on progress towards the elimination of reconciliation requirements and the efforts of accounting standard setters in third countries to converge with IFRS;
13. Proposes to modify the draft Commission regulation as follows:

TEXT PROPOSED
BY THE COMMISSION

MODIFICATIONS

Modification 1
Draft regulation — amending act
Recital 3

(3) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of GAAP of a third country.

(3) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of GAAP of a third country. **Regulation (EC) No 1569/2007 also requires that the Commission decision permit Community issuers to use IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the third country concerned.**

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TEXT PROPOSED
BY THE COMMISSION

MODIFICATIONS

Modification 2**Draft regulation — amending act
Recital 6**

(6) In its advice [delivered in March, May 2008 *and in ...* respectively], CESR recommended finding US GAAP and Japanese GAAP equivalent to IFRS for use within the Community. Furthermore, CESR recommended the acceptance of financial statements using GAAPs of China, Canada, South Korea within the Community on a temporary basis, until no longer than 31 December 2011.

(6) In its advice [delivered in March, May, and **October 2008** respectively], CESR recommended finding US GAAP and Japanese GAAP equivalent to IFRS for use within the Community. Furthermore, CESR recommended the acceptance of financial statements using GAAPs of China, Canada, South Korea **and India** within the Community on a temporary basis, until no longer than 31 December 2011.

Modification 3**Draft regulation — amending act
Recital 7**

(7) In 2006 the United States' Financial Accounting Standards Board and the IASB concluded a Memorandum of Understanding which reaffirmed their objective of convergence between US GAAP and IFRS and outlined the work programme for this purpose. As a result of this work programme many major differences between US GAAP and IFRS have been resolved. In addition, following the dialogue between the Commission and the US Securities and Exchange Commission, reconciliation for Community issuers which prepare their financial statements *according to* IFRS is no longer required. Therefore, it is appropriate to consider US GAAP equivalent to adopted IFRS from 1 January 2009.

(7) In 2006 the United States' Financial Accounting Standards Board and the IASB concluded a Memorandum of Understanding which reaffirmed their objective of convergence between US GAAP and IFRS and outlined the work programme for this purpose. As a result of this work programme many major differences between US GAAP and IFRS have been resolved. In addition, following the dialogue between the Commission and the US Securities and Exchange Commission, reconciliation for Community issuers which prepare their financial statements *in accordance with* IFRS **as issued by the IASB** is no longer required. Therefore, it is appropriate to consider US GAAP equivalent to adopted IFRS from 1 January 2009.

Modification 4**Draft regulation — amending act
Recital 12a (new)**

(12a) *The Indian Government and the Indian Institute of Chartered Accountants made a public commitment in July 2007 to adopt IFRS by 31 December 2011 and are taking effective measures to secure the timely and complete transition to IFRS by that date.*

Modification 5**Draft regulation — amending act
Article 1 — point 1
Regulation (EC) No 809/2004
Article 35 — paragraph 5A**

5A. Third country issuers are not subject to a requirement, under Annex I, item 20.1; Annex IV, item 13.1; Annex VII, item 8.2; Annex X, item 20.1 or Annex XI, item 11.1, to restate historical financial information, included in a prospectus and relevant for the financial years prior to financial years starting on or after 1 January 2012, or to a requirement

5A. Third country issuers are not subject to a requirement, under Annex I, item 20.1; Annex IV, item 13.1; Annex VII, item 8.2; Annex X, item 20.1 or Annex XI, item 11.1, to restate historical financial information, included in a prospectus and relevant for the financial years prior to financial years starting on or after 1 January 2012, or to a requirement

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under Annex VII, item 8.2.bis; Annex IX, item 11.1; or Annex X, item 20.1.bis, to provide a narrative description of the differences between International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 and the accounting principles in accordance with which such information is drawn up provided that the historical financial information is prepared in accordance with the Generally Accepted Accounting Principles of the People's Republic of China, Canada **or** the Republic of Korea.

under Annex VII, item 8.2.bis; Annex IX, item 11.1; or Annex X, item 20.1.bis, to provide a narrative description of the differences between International Financial Reporting Standards adopted pursuant to Regulation (EC) No 1606/2002 and the accounting principles in accordance with which such information is drawn up provided that the historical financial information is prepared in accordance with the Generally Accepted Accounting Principles of the People's Republic of China, Canada, the Republic of Korea **or the Republic of India.**

Modification 6

Draft regulation — amending act
Article 1a (new)

Article 1a

The Commission shall continue to monitor, with the technical assistance of the CESR, the efforts made by third countries towards a changeover to IFRS and pursue an active dialogue with authorities during the convergence process. The Commission shall submit a report on progress made in this regard to the European Parliament and the European Securities Committee (ESC) during 2009.

Modification 7

Draft regulation — amending act
Article 1b (new)

Article 1b

The dates announced publicly by third countries in relation to a changeover to IFRS shall serve as reference dates for the abolition of equivalence recognition for those third countries.

14. Proposes to modify the draft Commission decision as follows:

TEXT PROPOSED
BY THE COMMISSION

MODIFICATIONS

Modification 8

Draft decision
Recital 5

(5) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European

(5) In order to assess the equivalence of the Generally Accepted Accounting Principles (GAAP) of a third country with adopted IFRS, Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European

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TEXT PROPOSED
BY THE COMMISSION

MODIFICATIONS

Parliament and of the Council provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of GAAP of a third country.

Parliament and of the Council provides for the definition of equivalence and establishes a mechanism for the determination of equivalence of GAAP of a third country. **Regulation (EC) No 1569/2007 also requires that the Commission decision permit Community issuers to use IFRS adopted pursuant to Regulation (EC) No 1606/2002 in the third country concerned.**

Modification 9**Draft decision
Recital 7**

(7) In its advice [delivered in March, May 2008 and ... respectively], CESR recommended finding US GAAP and Japanese GAAP equivalent to IFRS for use within the Community. Furthermore, CESR recommended the acceptance of financial statements using GAAPs of China, Canada **and** South Korea within the Community on a temporary basis, until no longer than 31 December 2011.

(7) In its advice [delivered in March, May **and October** 2008 respectively], CESR recommended finding US GAAP and Japanese GAAP equivalent to IFRS for use within the Community. Furthermore, CESR recommended the acceptance of financial statements using GAAPs of China, Canada, South Korea **and India** within the Community on a temporary basis, until no longer than 31 December 2011.

Modification 10**Draft decision
Recital 8**

(8) In 2006 the United States' Financial Accounting Standards Board and the IASB concluded a Memorandum of Understanding which reaffirmed their objective of convergence between US GAAP and IFRS and outlined the work programme for this purpose. As a result of this work programme many major differences between US GAAP and IFRS have been resolved. In addition, following the dialogue between the Commission and the US Securities and Exchange Commission, reconciliation for Community issuers which prepare their financial statements according to IFRS is no longer required. Therefore, it is appropriate to consider US GAAP equivalent to adopted IFRS from 1 January 2009.

(8) In 2006 the United States' Financial Accounting Standards Board and the IASB concluded a Memorandum of Understanding which reaffirmed their objective of convergence between US GAAP and IFRS and outlined the work programme for this purpose. As a result of this work programme many major differences between US GAAP and IFRS have been resolved. In addition, following the dialogue between the Commission and the US Securities and Exchange Commission, reconciliation for Community issuers which prepare their financial statements according to IFRS **as issued by the IASB** is no longer required. Therefore, it is appropriate to consider US GAAP equivalent to adopted IFRS from 1 January 2009.

Modification 11**Draft decision
Recital 13a (new)**

(13a) The Indian Government and the Indian Institute of Chartered Accountants made a public commitment in July 2007 to adopt IFRS by 31 December 2011 and are taking effective measures to secure the timely and complete transition to IFRS by that date.

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TEXT PROPOSED
BY THE COMMISSION

MODIFICATIONS

Modification 12**Draft decision****Article 1 — paragraph 1 — introductory part**

From 1 January 2009, in addition to IFRS adopted pursuant to Regulation (EC) No 1606/2002, **a third country issuer shall be permitted to prepare its** annual consolidated financial statements and half-yearly consolidated financial statements **in accordance with** the following standards:

From 1 January 2009, in addition to IFRS adopted pursuant to Regulation (EC) No 1606/2002, **with regard to** annual consolidated financial statements and half-yearly consolidated financial statements, the following standards **shall be considered as equivalent to IFRS adopted pursuant to Regulation (EC) No 1606/2002**:

Modification 13**Draft decision****Article 1 — paragraph 2**

Prior to financial years starting on or after 1 January 2012, a third country issuer shall be permitted to prepare its annual consolidated financial statements and half-yearly consolidated financial statements in accordance with the Generally Accepted Accounting Principles of the People's Republic of China or Canada **or** the Republic of Korea.

Prior to financial years starting on or after 1 January 2012, a third country issuer shall be permitted to prepare its annual consolidated financial statements and half-yearly consolidated financial statements in accordance with the Generally Accepted Accounting Principles of the People's Republic of China or Canada, the Republic of Korea **or the Republic of India**.

Modification 14**Draft decision****Article 1a (new)****Article 1a**

The Commission shall continue to monitor, with the technical assistance of the CESR, the efforts made by third countries towards a changeover to IFRS and pursue an active dialogue with authorities during the convergence process. The Commission shall submit a report on progress made in this regard to the European Parliament and the European Securities Committee (ESC) during 2009.

Modification 15**Draft decision****Article 1b (new)****Article 1b**

The dates announced publicly by third countries in relation to a changeover to IFRS shall serve as reference dates for the abolition of equivalence recognition for those third countries.

15. Instructs its President to forward this resolution to the Council and the Commission.

Thursday 23 October 2008

Aviation security measures and body scanners

P6_TA(2008)0521

European Parliament resolution of 23 October 2008 on the impact of aviation security measures and body scanners on human rights, privacy, personal dignity and data protection

(2010/C 15 E/14)

The European Parliament,

- having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Charter of Fundamental Rights of the European Union, Article 6 of the EU Treaty, Article 80(2) of the EC Treaty, and Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security ⁽¹⁾,
- having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas the Commission has proposed a draft Commission regulation supplementing the common basic standards on civil aviation security, which includes, among the permitted methods for screening of passengers in EU airports, 'body scanners', i.e. machines producing scanned images of persons as if they were naked, equivalent to a virtual strip search,
- B. whereas body scanners may be one of the technical solutions required to keep a high level of security at European airports,
- C. whereas a European framework to guarantee the rights of European passengers, in the event of body scanners being used, is essential to prevent every airport from applying different regulations,
- D. whereas that draft measure, far from being merely technical, has a serious impact on the right to privacy, the right to data protection and the right to personal dignity, and therefore needs to be accompanied by strong and adequate safeguards,
- E. whereas the draft measure was not accompanied by a Commission impact assessment relating to fundamental rights, as required by the Commission communication of 27 April 2005 on compliance with the Charter of Fundamental Rights in Commission legislative proposals (COM(2005)0172); whereas the Commission consulted neither the European Data Protection Supervisor (EDPS) as required by Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾, nor the Article 29 Working Party, nor the Fundamental Rights Agency (FRA); and whereas no enquiries have been made into the possible impact of such machines on passengers' health,
- F. whereas, for the abovementioned reasons, doubts arise in relation to the justification of this measure and its proportionality and necessity in a democratic society,
- G. whereas this draft measure on methods of screening of passengers, which has been examined by way of the regulatory procedure with scrutiny (comitology), will be followed by implementing measures relating to requirements and procedures for screening, which will be decided through procedures under which Parliament has almost no powers,

⁽¹⁾ OJ L 97, 9.4.2008, p. 72.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

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- H. whereas no wider, transparent and open debate involving passengers, stakeholders and institutions at EU or national level has been promoted on what is an extremely delicate issue affecting citizens' fundamental rights,
- I. whereas effective security must be ensured in the aviation sector,
- J. whereas the decision of the Commission to phase out the ban on liquids by April 2010 at the latest is a positive step forward,
1. Considers that the conditions for taking a decision have not yet been met, given that essential information is still lacking, and asks the Commission, before the expiry of the three-month deadline, to:
- carry out an impact assessment relating to fundamental rights;
 - consult the EDPS, the Article 29 Working Party and the FRA;
 - carry out a scientific and medical assessment of the possible health impact of such technologies;
 - carry out an economic, commercial and cost-benefit impact assessment;
2. Believes that this draft measure could exceed the implementing powers provided for in the basic instrument, as the measures in question cannot be considered mere technical measures relating to aviation security, but have a serious impact on the fundamental rights of citizens;
3. Considers, in this respect, that that all aviation security measures, including use of body scanners, should respect the principle of proportionality as justified and necessary in a democratic society, and therefore asks the EDPS, the Article 29 Working Party and the FRA, as a matter of urgency, to urgently deliver an opinion on body scanners by the beginning of November 2008;
4. Reserves the right to verify the compatibility of such measures with human rights and fundamental freedoms with the EU legal services, and to take the necessary follow-up actions;
5. Instructs its President to forward this resolution to the Council, the Commission, and the governments and parliaments of the Member States.

EC-Bosnia and Herzegovina Stabilisation and Association Agreement

P6_TA(2008)0522

European Parliament resolution of 23 October 2008 on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part

(2010/C 15 E/15)

The European Parliament,

- having regard to the Presidency conclusions of the Thessaloniki European Council (19-20 June 2003) and to the annex thereto entitled 'The Thessaloniki Agenda for the Western Balkans: moving towards European integration',
- having regard to the Council decision of 7 November 2005 to open negotiations with Bosnia and Herzegovina (BiH) with a view to a Stabilisation and Association Agreement (SAA),
- having regard to the initialling of the SAA on 4 December 2007 and its signature on 16 June 2008,
- having regard to the draft Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part (8226/2008),

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- having regard to the Road Map for visa liberalisation presented to BiH by the Commission on 5 June 2008,
 - having regard to the Interim Agreement on trade and trade-related matters between the European Community, of the one part, and Bosnia and Herzegovina, of the other part, the Annexes and Protocols annexed thereto, and the joint declaration and the declaration by the Community attached to the Final Act,
 - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas the SAA is the first comprehensive international agreement between BiH and the European Union establishing a contractual relationship between the two parties which will facilitate BiH's transition towards becoming a fully functional state, a state whose future, as declared at the abovementioned Thessaloniki European Council, lies in the European Union,
- B. whereas the SAA has the potential to boost BiH's economy since it contains provisions which commit the country to liberalising its market, thus increasing the competitiveness of its businesses and attracting investment, to modernising its legal framework by making it more efficient and transparent and to gradually approximating BiH's laws and regulations to the *acquis communautaire*,
- C. whereas the Interim Agreement, which has been in force since 1 July 2008, abolishes gradually most trade restrictions between the two parties and could in the short term place a strain on BiH's economy due to competition by EU products and a reduction in customs revenues,
- D. whereas the SAA contains provisions concerning the strengthening of institutions, consolidation of the rule of law and respect for human rights, including minority rights,
- E. whereas it stipulates that the parties should cooperate in sensitive areas such as visas, border controls, asylum and migration, money laundering, the fight against terrorism and the fight against organised crime,
- F. whereas the implementation of the agreed reform of BiH police structures should be seen as part of the country's efforts to improve its capacity to address the above issues,
- G. whereas raising the level of general education and vocational education and training in BiH, as well as youth policy and youth work, including non-formal education, is also an objective of the agreement,
- H. whereas greater efforts are needed in order to overcome the division along ethnic lines and move towards genuine reconciliation between the parties; whereas these efforts must be addressed, in particular, to the young generations through common education programmes in both entities and through a common understanding of the recent tragic events that took place in the country,
- I. whereas BiH is still in many respects a country divided along ethnic lines, which is an obstacle to its transformation into a really functional state and democracy,
- J. whereas membership of the European Union is a prospect for Bosnia and Herzegovina only as a single state, and not for its entities, which do not enjoy autonomous sovereignty; whereas it is, therefore, in the interests of the entities to ensure that Bosnia and Herzegovina is a fully functional state, capable of fulfilling all the membership criteria and obligations,

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- K. whereas there are still 125 072 people officially registered as internally displaced persons (IDPs), of whom, according to the BiH Government, 8 000 are still living in collective centres, notably because of a lack of adequate housing, infrastructure and employment in their areas of origin,
- L. whereas sterling work has been carried out on the ground by non-governmental organisations (NGOs) seeking to make the situation of IDPs and refugees more bearable,
- M. whereas there are also 45 000 people officially registered as being in need of assistance to return to their pre-war places of residence,
- N. whereas war crimes should be pursued with equal determination, means and efficiency at both State and local level,
1. Welcomes the signature of this important agreement and urges all EU Member States to ratify it swiftly; is convinced that it consolidates the European prospects of BiH and provides a unique opportunity for the country to achieve peace, stability and prosperity;
2. Reminds the political leaders, in particular, that it is mainly their responsibility to exploit this opportunity by showing sufficient foresight and determination in jointly pursuing reforms at all levels — State, entity and local — with a view to modernising the country and making it more efficient and compatible with EU standards, not least by abolishing all unnecessary legal and administrative barriers and by streamlining administrative structures; believes that the authorities of the Federation, in particular, should as a matter of urgency consider taking concrete steps in this direction;
3. Recalls in this respect the obligation of BiH, in line with the SAA and the Interim Agreement, *inter alia* to:
- (a) abolish gradually all quantitative restrictions on EU products,
- (b) dismantle customs duties in accordance with the schedules negotiated,
- (c) simplify the flow of goods by any means of transport throughout the territory of BiH, and
- (d) draw up an exhaustive inventory of all aid schemes in the whole country, align all aid schemes to EU legislation and set up an independent authority for State aid;
4. Considers that the SAA has the potential to boost BiH's economy since it contains provisions which commit the country to liberalising its market, thus increasing the competitiveness of its businesses and attracting investment, and to modernising its legal framework by making it more efficient and transparent; encourages the BiH authorities to take the necessary steps to increase the level of foreign direct investment in the country;
5. Believes that the above measures mean that BiH's administrative capacity must be strengthened at all levels, including at the level of the State, which will have the responsibility of monitoring and ensuring compliance with the obligations resulting from the SAA, regardless of which bodies are responsible for the implementation of the SAA;
6. Recalls that both entities need to make progress in the privatisation process but emphasises that this should be done under transparent conditions and within a proper regulatory and legal framework and that the proceeds from privatisation should be invested in order to foster lasting economic development in the country;

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7. Calls on the BiH Parliament, in close cooperation with the parliaments of the entities, to monitor the implementation of the SAA and to facilitate the adoption of legislation relating to the SAA and the European Partnership;
8. Is convinced that the provisions regarding cooperation in areas such as visas, border management, migration and fighting organised crime and terrorism will provide a powerful incentive in BiH to build on the recently adopted police reform by promoting further cooperation between the different police structures and achieving greater harmonisation of procedures and practices; calls on the EU Police Mission in BiH to facilitate this process;
9. Welcomes the fact that the agreement also upholds the principle of non-discriminatory access to BiH's education and vocational training systems irrespective of gender, ethnic origin or religion; believes in fact that serious efforts are needed in order to overcome the segregationist structures currently operating in the country; considers that education and the familiarity gained through having lived side by side from an early age are key factors in the reconciliation process;
10. Believes that the EU should promote academic and research cooperation, including exchanges of staff, between BiH and the other countries of the region and between these and the EU Member States; recalls in this respect the contribution that EU programmes can make to this objective and the urgent need to establish a national agency in charge of implementing these programmes which are now open to the countries of the Western Balkans;
11. Urges the educational authorities in BiH finally to put in place the national agency required in order to allow participation by BiH citizens in the Community mobility programmes, which, at the behest of this Parliament, have been opened up to the Western Balkan countries; takes the view that, besides fostering the mobility of students and researchers, the relevant Community programmes should also seek to promote cross-entity cooperation between educational establishments;
12. Is also of the view that, taking into account the social and economic impact which might result from the entry into force of the Interim Agreement, the EU Instrument for Pre-Accession Assistance (IPA) ⁽¹⁾ must provide support to the modernisation of the country's social security systems and its labour legislation, as well as support for labour market organisations and trade unions, for the upgrading of BiH's transport infrastructure in order to facilitate economic development, and for environmental policies designed to reduce pollution, to optimise energy consumption and to improve waste management; welcomes, in this connection, the appointment, after protracted negotiations, of the national IPA Coordinator, as requested by the Commission;
13. Calls on the Commission to develop tailor-made measures reflecting the special conditions prevailing in BiH, in order to assist and facilitate the process of accession to the EU;
14. Urges the Commission to include the country in all its initiatives for promoting inter-personal contacts, developing civil society and enhancing BiH's economic and social development;
15. Is concerned about the lack of progress in the return of refugees and IDPs, for example in Posavina in the Republika Srpska; recalls the need to ensure that local authorities are more involved in and committed to the return process, the need to organise targeted outreach activities in order to increase public acceptance of returnees, the need to address outstanding infrastructure and public utilities requirements in the areas of return, the need to create employment opportunities for returnees, and the need to harmonise pension, health insurance and education systems throughout BiH, so as to ensure that returns can take place under safe and dignified conditions, are sustainable and contribute effectively to the reconciliation process;

⁽¹⁾ Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA), OJ L 210, 31.7.2006, p. 82.

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16. Recalls in this context the commitment to implement the Sarajevo Declaration of 2005;
17. Is convinced that increased efforts to facilitate returns are of particular importance in view of the need to carry out by 2011 a new population census, based on disaggregated data, in order to provide an updated overview of the population structure in BiH;
18. Calls on the BiH authorities to address as a matter of urgency the problems of the 8 000 residents of the still existing collective centres, for whom return in safety and dignity may not be feasible, and to consider appropriate, dignified and durable solutions for those persons;
19. Considers that greater efforts should be deployed for the rights of minorities in BiH, given the limited progress in this area; welcomes in this respect the electoral law amendment of April 2008 enabling members of national minorities to stand for local election; nevertheless regrets the fact that the number of seats for national minorities is left to the discretion of municipalities; emphasises, furthermore, the need to make operational the advisory councils on minorities which have recently been established in the Republika Srpska and are due to be set up in the Federation of BiH; finally, deplores the persisting discrimination against 'others' in the Constitution and electoral laws of BiH;
20. Expresses its concern about the climate of intolerance against lesbian, gay, bisexual and transgender (LGBT) people with regard, in particular, to the incidents that took place at the opening of the first Queer Festival in Sarajevo on 24 September 2008 and urges the BiH and local authorities to adopt the necessary measures to ensure that the fundamental right of peaceful assembly is fully guaranteed also to LGBT people in BiH;
21. Calls for more funding to be provided for the attainment of the National Mine Action Strategy's goal of ridding BiH of mines by 2009; points out that the main challenge in this area is the lack of funding for implementation of that strategy, and therefore urges the competent authorities to provide the funding required to implement and complete that project as swiftly as possible;
22. Calls on the Commission to guarantee EU funding for the UN programme on disarmament so that the destruction of the surplus weapons, military equipment and ammunition of the BiH armed forces can continue under UN supervision and to take measures to ensure that those weapons are not sold to unsavoury brokers, countries or regimes;
23. Recalls in this context the need to implement effectively the provisions regarding restitution of property which are already in force and urges the BiH authorities to overcome their hesitations in this respect;
24. Is also convinced that greater efforts should be devoted to addressing the question of missing persons and reparations to their families, and welcomes in this respect the work done by the International Commission on Missing Persons and the BiH Missing Persons Institute; urges the corresponding agencies at the entity level to support the work of the state-level bodies by forwarding to them all the relevant information they gather;
25. Takes the view that increased attention needs to be paid to war crimes trials at district and cantonal level in order to clarify whether, and in what way, cases should be distributed between the State and lower-level judiciaries, and to ensure that courts and prosecutors are properly resourced, that witnesses have access to adequate protection, that cross-border police and judicial cooperation is strengthened, and that the legal framework applicable at State, cantonal and local level is harmonised; calls on the Commission and the countries of the Western Balkans to act to make a marked improvement in cooperation at regional and international level in this connection;

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26. Supports in this context the current drafting of the BiH War Crimes Prosecution Strategy, which, by clarifying the number of potential war crimes cases, should help to identify the policy, financial and legislative decisions and resources necessary to address these cases;

27. Is concerned about the climate of intimidation of the media, human rights activists and civil society in general which prevails in the Republika Srpska and urges political leaders to recognise the important role which independent media and NGOs play in the democratic life of their entity;

28. Regrets the fact that Republika Srpska threatened to withdraw unilaterally from the State power transmission company and to form its own by withdrawing its previous support for the agreed reform; points out that this act would have undermined Bosnian efforts in the context of the country's Stabilisation and Association Process (SAP); at the same time, urges the authorities in the Federation to adopt the long-awaited laws in the area of electricity supply;

29. Calls for appropriate action to be taken in response to the signing by BiH, in connection with the International Criminal Court, of a bilateral immunity agreement with the United States that is out of step with the EU's common position and guidelines in this area;

30. Regrets the fact that, despite the serious challenges facing BiH in the field of controlling corruption, organised crime, human trafficking, money laundering and drug trafficking, progress in these areas is hampered by political interference and lack of political will and by lack of coordination between the different entity-based agencies and police forces; urges the BiH authorities rapidly to take further action to tackle these problems;

31. Is of the view that the debate on the future constitutional set-up of the country must be led by the Parliament of BiH; calls in this respect for a public debate conducted in a transparent and open manner, with full involvement of civil society; is also of the opinion that any constitutional settlement must be the product of voluntary agreement between the different political parties in BiH; nevertheless believes that the international community and the EU Special Representative have an important role to play as facilitators and calls on them to provide, in cooperation with the Venice Commission of the Council of Europe, the support necessary for conducting this debate;

32. Calls on local politicians to recognise the need for a structural reform of the BiH State; recalls, however, that this reform can only succeed if it is based on realistic premises;

33. Recalls that strengthening the central State does not mean weakening the entities but creating the conditions for an efficient administration which works for the common good of all BiH citizens in many areas, for example in the establishment of a single internal market; at the same time, warns against using the constitutional debate as an opportunity for the entities to arrogate to themselves powers and prerogatives which are specific to a sovereign state;

34. Reminds the authorities of BiH of their obligation to cooperate fully with the International Criminal Tribunal for the former Yugoslavia, particularly with regard to facilitating the arrest of the remaining fugitives, identifying and protecting potential witnesses and providing the Tribunal with the documents and other evidence required for trials and investigations;

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35. Regrets the fact that electoral authorities have failed to address the concerns of those BiH citizens who moved abroad during the war but wish nevertheless to exercise their right to vote; believes that a solution should be found in good cooperation with neighbouring countries, so as to allow these citizens to be registered;
36. Is of the opinion that closing down the Office of the High Representative (OHR) whilst strengthening the role of the EU Special Representative should remain the ultimate objective for both the international community and local leaders; therefore urges political leaders to live up to their responsibilities in this respect and to make serious efforts to meet the five objectives and two conditions set by the Peace Implementation Council so as to achieve, by means of a consensual process, the transition from a High Representative to an EU Special Representative;
37. Is dissatisfied in particular at the lack of progress in finalising the arrangements for the Brcko District; warns political leaders in BiH that the ruling by the Arbitral Tribunal on the status of Brcko is final and cannot be called into question;
38. Calls also on BiH's politicians to acknowledge the need for a reasonable apportionment of property between the State and the other administrative levels, which is one of the objectives for the closure of the OHR; urges them to engage seriously in negotiations for the resolution of this long-standing issue; recalls that the State must be allocated the resources necessary for the accomplishment of its tasks;
39. Reminds the representatives of the international community that their interlocutors in BiH are the institutions of that country, not the leaders of the main political parties; believes therefore that BiH institutions must be involved and indeed become the primary actors in the reform processes which the country has to carry out;
40. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the Government of Bosnia and Herzegovina and the High Representative/EU Special Representative for Bosnia and Herzegovina.

Commemoration of the Holodomor, the artificial famine in Ukraine (1932-1933)

P6_TA(2008)0523

European Parliament resolution of 23 October 2008 on the commemoration of the Holodomor, the Ukraine artificial famine (1932-1933)

(2010/C 15 E/16)

The European Parliament,

- having regard to the Treaty on European Union,
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms,
- having regard to the UN Convention for the Prevention and Punishment of the Crime of Genocide,
- having regard to the Joint Statement issued at the 58th Plenary Session of the UN General Assembly on the 70th Anniversary of the Holodomor in Ukraine, which was supported by 63 States, including all the (then) 25 EU Member States,

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- having regard to the Ukrainian Law on the ‘Holodomor in Ukraine of 1932-1933’, adopted on 28 November 2006,
 - having regard to the statement of the President of the European Parliament on 21 November 2007 marking the start of the commemoration of the 75th anniversary of the Holodomor famine in Ukraine,
 - having regard to the Final Statement and Recommendations of the Tenth Meeting of the EU-Ukraine Parliamentary Cooperation Committee, adopted on 27 February 2008,
 - having regard to Rule 103(4) of its Rules of Procedure,
- A. whereas respect for human rights and fundamental freedoms are basic principles on which the EU is founded,
- B. whereas the UN Convention for the Prevention and Punishment of the Crime of Genocide criminalises a number of acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group,
- C. whereas the Holodomor famine of 1932-1933, which caused the deaths of millions of Ukrainians, was cynically and cruelly planned by Stalin’s regime in order to force through the Soviet Union’s policy of collectivisation of agriculture against the will of the rural population in Ukraine,
- D. whereas the commemoration of crimes against humanity in European history should help to prevent the occurrence of similar crimes in the future,
- E. whereas European integration has been based on a readiness to come to terms with the tragic history of the 20th century and a recognition that reconciliation with a difficult history does not denote any sense of collective guilt, but forms a stable basis for the construction of a common European future founded on common values and a shared and interdependent future,
1. Makes the following declaration to the people of Ukraine and in particular to the remaining survivors of the Holodomor and the families and relatives of the victims:
- (a) recognises the Holodomor (the artificial famine of 1932-1933 in Ukraine) as an appalling crime against the Ukrainian people, and against humanity;
 - (b) strongly condemns these acts, directed against the Ukrainian peasantry, and marked by mass annihilation and violations of human rights and freedoms;
 - (c) expresses its sympathy with the Ukrainian people, who suffered in this tragedy, and pays its respects to those who died as a consequence of the artificial famine of 1932-1933;
 - (d) calls on the countries which emerged following the break-up of the Soviet Union to open up their archives on the Holodomor in Ukraine of 1932-1933 to comprehensive scrutiny so that all the causes and consequences can be revealed and fully investigated;
2. Instructs its President to forward this resolution to the Council, the Commission, the Government and Parliament of Ukraine, the Secretary-General of the UN, the Secretary-General of the Organisation for Security and Cooperation in Europe and the Secretary-General of the Council of Europe.
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Annual report on the European Ombudsman's activities in 2007

P6_TA(2008)0524

European Parliament resolution of 23 October 2008 on the annual report on the European Ombudsman's activities in 2007 (2008/2158(INI))

(2010/C 15 E/17)

The European Parliament,

- having regard to the annual report on the European Ombudsman's activities in 2007,
 - having regard to Article 195 of the EC Treaty,
 - having regard to Article 43 of the Charter of Fundamental Rights of the European Union,
 - having regard to Decision 94/262/ECSC, EC, Euratom of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽¹⁾,
 - having regard to its resolution of 6 September 2001 amending Article 3 of the regulations and general conditions governing the performance of the Ombudsman's duties ⁽²⁾,
 - having regard to the framework agreement on cooperation concluded between the European Parliament and the Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
 - having regard to the Commission's communication of 5 October 2005 entitled 'Empowerment to adopt and transmit communications to the European Ombudsman and authorise civil servants to appear before the European Ombudsman' (SEC(2005)1227),
 - having regard to the letter of July 2006 sent by the European Ombudsman to the President of the European Parliament with a view to initiating the procedure for the revision of the Ombudsman's Statute,
 - having regard to its draft decision of 22 April 2008 ⁽³⁾ and its resolution of 18 June 2008 on the adoption of a decision of the European Parliament amending its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽⁴⁾,
 - having regard to its previous resolutions on the European Ombudsman's activities,
 - having regard to Rule 195(2), second and third sentences, of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A6-0358/2008),
- A. whereas the annual report on the European Ombudsman's activities in 2007 was formally submitted to the President of Parliament on 10 March 2008 and whereas the Ombudsman, Mr Nikiforos Diamandouros, presented the report to the Committee on Petitions in Strasbourg on 19 May 2008,
- B. whereas the Charter of Fundamental Rights of the European Union, originally proclaimed in December 2000, was signed on 12 December 2007, and reconfirmed by the Presidents of Parliament, of the Commission and of the Council, and whereas the commitment to a legally binding Charter, contained in the Treaty of Lisbon, which is in the process of ratification, reflects a growing awareness that citizens should be placed at the centre of a transparent, accessible and contactable Europe which is aware of the concerns of its citizens,

⁽¹⁾ OJ L 113, 4.5.1994, p. 15.

⁽²⁾ OJ C 72 E, 21.3.2002, p. 336.

⁽³⁾ Texts Adopted, P6_TA(2008)0129.

⁽⁴⁾ Texts Adopted, P6_TA(2008)0301.

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- C. whereas Article 41 of the Charter states: 'Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union',
- D. whereas Article 43 of the Charter states: 'Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role',
- E. whereas it is essential that the European institutions and bodies make full use of the necessary resources in order to fulfil their obligation to ensure that citizens receive prompt and substantive responses to their enquiries, complaints and petitions,
- F. whereas, although seven years have passed since the adoption of Parliament's abovementioned resolution of 6 September 2001 approving the Ombudsman's Code of Good Administrative Behaviour, the other main institutions have not yet complied with Parliament's urgent request that they bring their practice into line with the provisions of that code,
- G. whereas about 16 % fewer complaints were received in 2007 than in 2006 but the number of admissible complaints increased in both absolute and relative terms from 449 (12 % of the total) to 518 (16 % of the total) in 2007,
- H. whereas the findings of the 348 completed inquiries, of which 341 were linked to complaints and 7 were own-initiative investigations, show that in 95 cases (corresponding to 25.7 % of the complaints investigated) no maladministration could be ascertained,
- I. whereas the year 2007 saw a doubling of the number of cases of maladministration settled by the institution or body itself following a complaint to the Ombudsman (129 cases), which reflects a growing willingness on the part of the institutions and bodies to see complaints to the Ombudsman as an opportunity to put right mistakes that have occurred and to cooperate with the Ombudsman for the benefit of citizens,
- J. whereas 5 cases were closed in 2007 after an amicable resolution had been achieved, and at the end of 2007 31 proposals for amicable resolutions were still under consideration,
- K. whereas in 2007 the Ombudsman began to make wider use of more informal procedures to help resolve problems in a flexible way and will continue to develop this approach in the future, which demonstrates the Ombudsman's and the institutions' readiness to help citizens,
- L. whereas in 2007 the Ombudsman closed 55 inquiries with critical remarks and whereas a critical remark confirms to the complainant that his or her complaint is justified and indicates to the institution or body concerned what it has done wrong, so as to help it avoid maladministration in the future,
- M. whereas eight draft recommendations were made in 2007, seven draft recommendations from 2006 led to a decision in 2007 and one case led to a special report to the European Parliament,
- N. whereas neither the critical remarks contained in decisions closing irremediable cases of maladministration, nor recommendations or special reports by the Ombudsman, have binding effect, as his powers do not extend to directly remedying instances of maladministration but are intended to encourage self-regulation on the part of the European Union's institutions and bodies,

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- O. whereas maladministration has been defined as a failure by the institution or other body concerned to comply with rules or principles which are binding upon it, including when these result from a commitment on the part of the institution or body itself which is not directly required by the Treaties or by secondary legislation,
- P. whereas the Ombudsman has set as a priority the need to promote good administration in the EU institutions and bodies and to encourage efforts in this respect which go beyond merely avoiding unlawful behaviour,
- Q. whereas the Ombudsman submitted one special report to the European Parliament in 2007 and whereas submitting a special report to Parliament represents a valuable means by which the Ombudsman can seek the political support of Parliament and its Committee on Petitions in order to bring satisfaction to citizens whose rights have been infringed, as well as promoting the improvement of standards of EU administration,
- R. whereas, since the entry into force of the Treaty of Nice, Parliament has enjoyed the same right as the Member States, the Council and the Commission to bring an action before the Court of Justice of the European Union on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the EC Treaty or of any rule of law relating to its application, or misuse of powers,
- S. whereas the critical comments regarding maladministration voiced by the Ombudsman in the 2007 report (critical remarks, draft recommendations and special report) may serve as a basis for avoiding a repetition of errors and malfunctions in future through the implementation of appropriate measures by the institutions and other bodies of the EU,
- T. whereas the cooperation established by the Ombudsman within the European Network of Ombudsmen has functioned for over ten years as a flexible system for exchanging information and best practice and as a means of directing complainants to the ombudsmen or other similar bodies most able to assist them,
- U. whereas the role of the Ombudsman in protecting EU citizens has evolved in the 12 years since the office was created, thanks to the Ombudsman's independence and Parliament's democratic scrutiny of the transparency of his activities,
- V. whereas the activities of the Ombudsman and of the Committee on Petitions must remain separate and, as a general rule aimed at avoiding conflicts as regards their respective prerogatives, should include reciprocal definitive referral of their respective files,
1. Approves the annual report for 2007 presented by the European Ombudsman and the form in which it is presented, combining a summary of the year's activities and a thematic analysis of the Ombudsman's decisions and the problems raised at various stages of the procedure; considers, however, that further efforts should be made to improve the tables of statistics, in which the mix of figures and percentages can be confusing;
 2. Calls for all EU institutions and bodies to be given the necessary budgetary and human resources to ensure that citizens receive prompt and substantive responses to their enquiries, complaints and petitions;
 3. Considers that the Ombudsman has continued to exercise his powers in an active and balanced way, both with regard to examining and handling complaints and conducting and concluding enquiries and with regard to maintaining constructive relations with the European Union's institutions and bodies and encouraging citizens to avail themselves of their rights in relation to those institutions and bodies;

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4. Calls on the Ombudsman to continue to pursue his efforts and to promote his activities effectively, transparently and flexibly so that a genuine culture of service to citizens can be built in the EU institutions and bodies;
5. Considers that the term 'maladministration' should be broadly interpreted so as to include not only administrative acts which infringe rules or principles laid down by the Treaties or by secondary legislation but also, for example, cases where the administrative authorities themselves have assumed certain obligations through, for instance, the adoption of a code of good administrative behaviour or where approved policies or declarations of a political nature have given rise to legitimate and reasonable expectations among citizens;
6. Supports the Ombudsman's efforts to promote good administration through additional remarks and suggestions to institutions and bodies even when he has not found any instance of maladministration during his inquiries, but nevertheless considers that improvements are needed in light of the objective of developing a citizen-friendly and service-minded culture within the EU's administration;
7. Regards the role of the Ombudsman in enhancing openness and accountability in the decision-making processes and administration of the European Union as an essential contribution towards a Union in which decisions are taken 'as openly as possible and as closely as possible to the citizen', as provided for in Article 1(2) of the Treaty on European Union, in collaboration with the ombudsman authorities within each Member State, so that the EU is in closer contact with the citizens of Europe;
8. Repeats its call, expressed in previous resolutions, for all EU institutions and bodies to adopt a common approach with regard to the Code of Good Administrative Behaviour;
9. Notes that the Code of Good Administrative Behaviour proposed by the Ombudsman, as approved by Parliament in its abovementioned resolution of 6 September 2001, covers the staff of all Community institutions and bodies and, unlike the other codes, has been regularly updated and published on the Ombudsman's website;
10. Stresses the need to further enhance the public profile of the Ombudsman, whose aim is to provide citizens, companies, non-governmental organisations and other entities with information, and considers that high-quality information may help to reduce the number of complaints which do not fall within the Ombudsman's terms of reference; at the same time, calls on the Ombudsman to forward immediately to the competent authorities, by way of the most appropriate network at national and local level those complaints which do not fall within his terms of reference;
11. Recognises the increase in the absolute number of admissible complaints but considers that the figure in respect of admissible complaints — 16 % — remains unsatisfactory; in view of this, recommends that an enhanced information campaign be conducted amongst European citizens designed to raise their awareness of the functions and competence of the European Ombudsman;
12. Welcomes the generally constructive cooperation between the Ombudsman and the EU institutions and bodies and endorses him in his role of external control mechanism and, in addition, as a valuable source of ongoing improvement to European administration;
13. Calls on the Ombudsman to ensure that the Commission makes proper use of its discretionary powers to initiate infringement proceedings under Article 226 of the EC Treaty or to propose penalties under Article 228 of the EC Treaty, while taking scrupulous care to avoid delays or unjustifiable failure to take prompt action, which are incompatible with the Commission's powers to oversee the application of EU law;

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14. Considers that, if an institution refuses to follow a recommendation contained in a special report by the Ombudsman despite Parliament having approved that recommendation, Parliament could legitimately use its powers to bring an action before the Court of Justice in respect of the act or omission which was the subject of the Ombudsman's recommendation;
15. Notes that the Ombudsman has presented a special report criticising the Commission for not dealing with a complaint concerning the European Working Time Directive, on which Parliament adopted a resolution on 3 September 2008 ⁽¹⁾;
16. Considers that, when the Ombudsman and the Committee on Petitions, acting within their respective mandates and competences, investigate overlapping issues, such as, respectively, the manner in which the Commission has conducted infringement proceedings and the alleged infringement itself, they can achieve useful synergy through close cooperation;
17. Welcomes the relationship between the Ombudsman and the Committee on Petitions within the institutional frameworks as regards the reciprocal respecting of competences and prerogatives;
18. Recognises the useful contribution made by the European Network of Ombudsmen, in line with the subsidiarity principle, in securing extra-judicial remedies; welcomes the collaboration between the European Ombudsman and ombudsmen and similar bodies at national, regional and local levels in the Member States and urges further strengthening of the exchange of best practice, thereby allowing for the harmonisation of best practices between Member States;
19. Welcomes the adoption of the Statement of the European Network of Ombudsmen in October 2007 as an important contribution towards making the EU dimension of the work of ombudsmen better known and towards clarifying the service they provide to people who complain about matters within the scope of EU law;
20. Welcomes the European Ombudsman's initiatives to advertise widely both his own work and the work carried out by national ombudsmen, and recommends that the Ombudsman further pursue his efforts to raise citizens' awareness;
21. Encourages the Ombudsman to continue to place great emphasis himself on events involving citizens and, hence, potential complainants, since it is clear that the demarcation of responsibilities and decision-making processes between the European, national and regional levels is still too hard to grasp for many citizens and businesses;
22. Welcomes the enhanced information campaign promoted by the communications strategy adopted by the Ombudsman, which leads to greater awareness of citizens' rights and Community competences, as well as a greater understanding of the Ombudsman's sphere of competence; urges him, however, in the light of the still substantial number of complaints falling outside his terms of reference, to intensify his efforts to provide more comprehensive information about those terms of reference on a more regular basis;
23. Given that each institution has its own web site enabling complaints, petitions, etc. to be lodged, and given that this frustrates citizens in distinguishing between the various institutions, welcomes the development of an interactive manual designed to assist citizens in identifying the most suitable forum for resolving their problems;

⁽¹⁾ Texts Adopted, P6_TA(2008)0398.

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24. In order to reduce the number of inadmissible complaints filed with the European Ombudsman, suggests that this idea be developed further and that a common web site of the European institutions be put in place to help citizens and refer them directly to the institution competent to handle their complaint;
25. Proposes that the Ombudsman take measures to reduce the number of complaints in such cases where no action is possible;
26. Calls on the European Ombudsman to commit himself to directly forwarding, after obtaining the consent of the petitioner concerned, each complaint that falls within the competence of a national or regional ombudsman;
27. Proposes, with a view to the provision of a better and more efficient service to citizens, that the Ombudsman continue to bring to their knowledge the internal procedures and deadlines for handling complaints, as well as the criteria used to make decisions at the different stages of the examination of a complaint;
28. Instructs its President to forward this resolution to the Council, the Commission and the European Ombudsman, and to the governments and parliaments of the Member States and their ombudsmen or similar competent bodies.

Venezuela

P6_TA(2008)0525

European Parliament resolution of 23 October 2008 on political disqualifications in Venezuela

(2010/C 15 E/18)

The European Parliament,

- having regard to its previous resolutions on Venezuela, in particular that of 24 May 2007 on the Radio Caracas TV channel case in Venezuela ⁽¹⁾,
 - having regard to the Human Rights Watch report of September 2008 entitled 'A Decade Under Chávez: Political Intolerance and Lost Opportunities for Advancing Human Rights in Venezuela',
 - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas the Venezuelan authorities are using various lists of citizens ('Tascón list', 'Maisanta list', 'Russián list') to remove public officials from office and to deprive citizens of their right to hold public office and of access to administrative services and procedures,
- B. whereas the political use of these lists is restricting the civil and political rights of opponents of the current Venezuelan Government, in particular the right to stand for election and the right of voters freely to elect their local, regional and national authorities,
- C. whereas the Venezuelan Comptroller-General has issued an administrative order disqualifying a large number of opposition figures from standing in the regional and local elections to be held in November 2008,

⁽¹⁾ OJ C 102 E, 24.4.2008, p. 484.

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- D. whereas the Venezuelan authorities have arbitrarily expelled from the country the Director for the Americas of the NGO Human Rights Watch, José Miguel Vivanco, and the organisation's Deputy Director for the Americas, Daniel Wilkinson, for having presented a critical report on the civil liberties and human rights situation during President Hugo Chávez's 10 years in office,
- E. whereas these are only the last in a long series of measures taken by the government with a view to intimidating opposition members, dissidents and international observers in the country,
- F. whereas on 1 October 2008, Julio Soto, the student leader of the COPEI party and President of the Students Union at Zulia State University, was riddled with bullets in his car in the city of Maracaibo — a crime that was committed under strange circumstances and that has yet to be cleared up,
1. Expresses concern about the list of electoral disqualifications issued by the Venezuelan Comptroller-General;
 2. Urges the Venezuelan Government to examine the above administratively imposed political disqualifications with reference to the provisions of Articles 42 and 65 of the Venezuelan Constitution, under which such measures may be taken on a definitive basis by judicial authorities alone, as is customary in all democratic states;
 3. Urges the Venezuelan Government also to comply with the international agreements signed and ratified by Venezuela, including the American Convention on Human Rights, with specific reference to the provisions on political rights set out in Articles 23(1)(b) and (2) thereof, and Articles 2 and 25 of the International Covenant on Civil and Political Rights;
 4. Expresses firm opposition to the harassment and arbitrary expulsion of human rights activists; considers that expulsion sets an extremely serious precedent as regards respect for freedom of expression and the right to criticise, that are fundamental to any democratic society;
 5. Vigorously condemns the murder of the student leader, Julio Soto; conveys its condolences to the victim's family and friends and calls on the Venezuelan authorities to make every possible effort to clear up this crime as soon as possible, so that the perpetrators and those responsible are brought to justice and the crime does not go unpunished;
 6. Calls on the Chávez government to put an end to all such practices and to foster a more participative democracy in Venezuela, in full compliance with the principles laid down in the 1999 Constitution;
 7. Instructs its President to forward this resolution to the Council and Commission, and to the Secretary-General of the Organisation of American States, the Euro-Latin American Parliamentary Assembly, the Mercosur Parliament and the government and parliament of the Bolivarian Republic of Venezuela.

Democratic Republic of Congo: clashes in the eastern border areas

P6_TA(2008)0526

European Parliament resolution of 23 October 2008 on the Democratic Republic of Congo: clashes in the eastern border areas of the DRC

(2010/C 15 E/19)

The European Parliament,

- having regard to its resolution of 21 February 2008 on North Kivu ⁽¹⁾,
- having regard to its resolution of 17 January 2008 on the situation in the Democratic Republic of Congo and rape as a war crime ⁽²⁾, and to its previous resolutions on human rights abuses in the Democratic Republic of Congo (DRC),

⁽¹⁾ Texts Adopted, P6_TA(2008)0072.

⁽²⁾ Texts Adopted, P6_TA(2008)0022.

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- having regard to the resolution of the ACP-EU Joint Parliamentary Assembly of 22 November 2007 on the situation in the Democratic Republic of Congo, in particular in the east, and its impact on the region ⁽¹⁾,
 - having regard to its resolution of 15 November 2007 on the EU response to situations of fragility in developing countries ⁽²⁾,
 - having regard to the Commission communication of 25 October 2007 entitled 'Towards an EU response to situations of fragility — engaging in difficult environments for sustainable development, stability and peace' (COM(2007)0643) and the Commission staff working document annexed thereto (SEC(2007)1417),
 - having regard to Resolution 60/1 of the United Nations General Assembly of 24 October 2005 on the 2005 World Summit Outcome, and in particular paragraphs 138 to 140 on the responsibility to protect populations,
 - having regard to the Council declaration of 10 October 2008 on the situation in the eastern part of the DRC,
 - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas the fighting between the Congolese Army, the rebel troops of ousted General Laurent Nkunda, the fighters of the Democratic Forces for the Liberation of Rwanda (FDLR) and troops of Uganda's Lord's Resistance Army (LRA) has been causing the civilian populations of the eastern provinces of the DRC tremendous hardship for many months,
- B. whereas the conflict affecting the DRC has claimed the lives of 5 400 000 people since 1998 and is still causing, either directly or indirectly, approximately 1 500 deaths each day,
- C. whereas when heavy fighting has taken place around the border village of Rumangabo near Goma, and a strategically important military camp was overrun by Nkunda's rebels, allowing them to seize weapons and supplies,
- D. whereas, according to UNHCR reports, the renewed fighting in North Kivu has led to a high number of casualties and more than 100 000 persons being displaced, and whereas there are also reports of hundreds of dead bodies being thrown into the river and 50 000 persons being displaced after heavy fighting involving the LRA in the province of Ituri,
- E. whereas since the Goma peace agreement signed on 23 January 2008 there have been massacres, rapes of young girls, mothers and grandmothers, forced recruitments of civilians and child soldiers and a host of other acts of violence and serious human rights abuses in the eastern parts of the DRC, both by Laurent Nkunda's rebel troops and by FDLR combatants and the Congolese Army itself,
- F. whereas the UN Mission in the DRC (MONUC) has a mandate under Chapter VII of the United Nations Charter to use all necessary means to deter any attempted use of force by any foreign or Congolese armed group, particularly ex-FAR (ex-Rwandan armed forces) and Interahamwe fighters, that would threaten the political process, and to ensure the protection of civilians under imminent threat of physical violence,

⁽¹⁾ OJ C 58, 1.3.2008, p. 40.

⁽²⁾ Texts Adopted, P6_TA(2007)0540.

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- G. having regard to the undertakings concerning gradual demobilisation and the ceasefire commitment given at the Goma Conference for Peace, Security and Development, including a ceasefire among all warring parties, the disarmament of all non-governmental forces, the return and resettlement of all displaced peoples in the eastern parts of DRC and the establishment of a temporary mechanism for ceasefire monitoring,
- H. whereas the Congolese Army does not have the human, technical and financial resources necessary to carry out its tasks in the eastern provinces of the DRC, a state of affairs which is undermining its role in protecting the population and in re-establishing peace,
- I. whereas it is vital to find a political solution to the conflict in the eastern provinces of the DRC, so as to consolidate peace and democracy and promote stability and development in the region for the well-being of all the peoples of the Great Lakes region,
- J. whereas the civil war in the region, which has been underway for four years, has been marked by the systematic pillaging of the country's wealth by the allies and enemies of the Congolese Government,
- K. whereas several humanitarian organisations have been forced to suspend their activities following the hostilities at the end of 2007, whilst health centres remain without supplies or have been abandoned by their medical staff,
- L. whereas, in order to achieve a significant improvement in health and a reduction in the mortality rate in the DRC as a whole and in its eastern provinces in particular, years of sustained commitment and a substantial financial investment will be required both from the Congolese Government and the international community,
- M. whereas humanitarian aid workers have reported that the local and displaced populations in the eastern provinces of the DRC are growing progressively weaker and that the continuing warfare is preventing aid workers from gaining access to certain areas which are in need of urgent food and medical aid,
- N. whereas malnutrition is a further aspect of the extreme vulnerability of the populations now living in the eastern provinces of the DRC, and whereas the data from 'Médecins sans Frontières' (MSF) medical aid programmes offer an alarming indication of the scale of malnutrition in the eastern provinces of the DRC,
- O. whereas the EU firmly condemns the recent statements by Laurent Nkunda calling for the elected and legitimate government of the DRC to be overthrown,
1. Is extremely concerned about the renewed fighting between the Congolese Army and resurgent militias in North Kivu and the previously pacified region of Ituri;
 2. Expresses its deep outrage at the massacres, crimes against humanity and acts of sexual violence against women and girls which have continued for too many years in the eastern provinces of the DRC and calls on all relevant national and international authorities systematically to bring the perpetrators to justice, whoever they may be, and calls on the UN Security Council, as a matter of urgency, to take all measures capable of genuinely preventing any further attacks on the civilian population of the eastern provinces of the DRC;
 3. Calls on the Congrès National pour la Défense du Peuple (CNDP — National Congress for the People's Defence) to return immediately and unconditionally to the peace process to which it committed itself in Goma in January 2008;

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4. Urges all actors to restore the rule of law and fight impunity, specifically in connection with the mass rapes of women and girls and the recruitment of child soldiers;
5. Calls on the Government of the DRC to develop a plan with Rwanda and MONUC to isolate and capture the leaders of the genocide among the FDLR and offer resettlement in the DRC or reintegration in Rwanda to those who were not involved in the genocide and are willing to demobilise;
6. Calls on the international community and the UN Security Council to strengthen MONUC by providing appropriate materials and staff to enable it to fulfil its mandate, as was requested by the head of MONUC, Alan Doss, in New York after briefing the UN Security Council;
7. Welcomes the fact that the President of the DRC and his ministers have publicly expressed their support for MONUC in respect of its contribution to national security;
8. Calls on MONUC to investigate accusations that the Congolese Army is colluding with the FDLR over control of North Kivu's lucrative mineral trade and to put an end to this practice;
9. Reaffirms its support for the Congolese authorities in their efforts to find a political solution to the crisis and calls on all parties to respect the ceasefire;
10. Notes with concern that elements from the LRA have recently launched attacks on 16 localities in the DRC's eastern territories of Dungu, Province Oriental and Ituri, where UNHCR reports of about 80 missing children are confirming fears of new forced recruitment campaigns involving child soldiers;
11. Stresses that the grouping of people along ethnic lines during the displacement process is potentially dangerous in the current circumstances;
12. Calls for zero tolerance of the sexual violence against girls and women which is used as a weapon of war and for severe criminal penalties to be imposed on the perpetrators of these crimes; draws attention to the importance of access to health services in conflict situations and refugee camps;
13. Calls on all the parties to stand by their commitments to protect the civilian population and respect human rights, as outlined in the Goma peace agreement and the Nairobi Communiqué, and to implement them swiftly;
14. Calls on the governments of the DRC and Rwanda to stop the recent verbal hostilities, return to a constructive dialogue and put an end to the conflict;
15. Encourages all the governments of the Great Lakes region to initiate a dialogue with the aim of coordinating their efforts to lower tensions and stop the violence in the eastern parts of the DRC before this conflict spreads to the region as a whole;
16. Calls on the Council and Commission to implement with immediate effect large-scale medical assistance and reintegration programmes for the civilian populations in the eastern parts of the DRC, with particular focus on assistance for women and girls affected by crimes of sexual violence, in order to meet immediate needs and in anticipation of the reconstruction which will be required; notes the key role played by women in rebuilding shattered communities;

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17. Calls on the Prosecutor of the International Criminal Court to investigate atrocity crimes committed in the Kivus and Ituri since June 2003 and prosecute those most clearly responsible, ensuring that this includes the principal militia chiefs who have not been arrested and those responsible for massacres and sexual violence;

18. Calls for the effective establishment of monitoring mechanisms, such as the Kimberley Process for the certification of the origin of natural resources imported into the EU market;

19. Calls on the Council and every Member State to provide special aid to the populations of the eastern parts of DRC;

20. Instructs its President to forward this resolution to the Council, the Commission, the High Representative for the CFSP, the governments and parliaments of the Member States, the institutions of the African Union, the Secretary-General of the United Nations, the United Nations Security Council, the United Nations Human Rights Council and the governments and parliaments of the Great Lakes region.

Burma

P6_TA(2008)0527

European Parliament resolution of 23 October 2008 on Burma

(2010/C 15 E/20)

The European Parliament,

- having regard to its resolutions of 19 June 2008 ⁽¹⁾, 24 April 2008 ⁽²⁾, 27 September 2007 ⁽³⁾, 21 June 2007 ⁽⁴⁾ and 14 December 2006 ⁽⁵⁾ on Burma,
 - having regard to the Council's Conclusions on Burma/Myanmar of 29 April 2008, adopted at the General Affairs and External relations Council in Luxembourg, and the Council Common Position 2006/318/CFSP of 27 April 2006 renewing restrictive measures against Burma/Myanmar ⁽⁶⁾,
 - having regard to the report of 3 September 2008 (A/63/341) by the United Nation's (UN) Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana,
 - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas 24 October 2008 marks the 13th anniversary of the unjust incarceration as a political prisoner of Aung San Suu Kyi, General Secretary of the National League for Democracy (NLD); whereas an additional 2 120 individuals continue to face imprisonment in atrocious conditions merely for expressing the wish to bring democracy to Burma; and whereas on 3 October 2008 Navanethem Pillay, newly appointed UN High Commissioner for Human Rights, formally appealed to the Burmese military authorities to release all political prisoners,
- B. whereas, on the anniversary of Aung San Suu Kyi's captivity, leaders of Asian and European countries will convene the Seventh Asia-Europe Meeting (ASEM) in China on 24 and 25 October 2008,
- C. whereas the Burmese military junta is purposely refusing to take any preventive or protective measures to safeguard against the severe famine threatening Chin state in the West of the country,
- D. whereas in September 2008 the Burmese authorities staged a five-day crackdown on widespread protests that had begun six weeks earlier,

⁽¹⁾ Texts Adopted, P6_TA(2008)0312.

⁽²⁾ Texts Adopted, P6_TA(2008)0178.

⁽³⁾ OJ C 219 E, 28.8.2008, p. 311.

⁽⁴⁾ OJ C 146 E, 12.6.2008, p. 383.

⁽⁵⁾ OJ C 317 E, 23.12.2006, p. 902.

⁽⁶⁾ OJ L 116, 29.4.2006, p. 77.

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- E. whereas the human rights situation has continued to deteriorate, political repression has escalated and the military junta has failed to deliver on promises made to the international community in the aftermath of the Saffron revolution of September 2007,
- F. whereas in 2003 the United States forbade the import of all Burmese clothing, which is manufactured in conditions of virtual slavery, and whereas the Council of the European Union has hitherto failed to reach consensus among Member States on taking equivalent measures,
- G. whereas the Secretary-General of the United Nations has announced that he may cancel a visit to Burma planned for December 2008 should there be no discernible improvement in the national situation in the months ahead,
- H. whereas the UN revealed in August 2008 that the Burmese military authorities were fraudulently seizing a percentage of humanitarian aid remitted to Burma through falsely weighted currency exchange rates,
- I. whereas the Burmese military authorities have paralysed Internet access to the free media, impeded the circulation of independent information sources and imprisoned so-called cyber-dissidents for attempting freely to express their political opinions,
1. Condemns the continued detention of Aung San Suu Kyi, who has been under intermittent house arrest since her victory at the last democratic elections in 1990, and insists upon her immediate release;
 2. Deplores the fact that the number of political prisoners has increased from 1 300 to 2 000 in the aftermath of the Saffron Revolution, and that, despite the release of veteran journalist and NLD secretary U Win Tin and six other leaders in September 2008, 23 NLD members were subsequently arrested;
 3. Denounces the arbitrary charges behind the arrests of many dissidents and the harsh conditions of detention of political prisoners including widespread use of torture and hard labour; expresses deep concern about the systematic denial of medical treatment to political prisoners, and calls for the International Committee of the Red Cross to be allowed to resume visits;
 4. Urges the ASEM states at their Summit to jointly appeal to the Burmese military authorities to release all political prisoners;
 5. Strongly condemns the ethnic cleansing directed against the Karen minority, including those seeking refuge in neighbouring Thailand; calls in this respect on the international community to exert stronger pressure on the junta to stop military actions against civilians and to increase humanitarian assistance to affected populations, including by cross-border mechanisms, where necessary;
 6. Calls on the Commission to insist on the lifting of all restrictions on aid delivery imposed by the Burmese military authorities on areas afflicted by Cyclone Nargis, and to present a full report on the efficacy of its assistance and the extent of assistance still required;
 7. Calls on the Burmese authorities urgently to attend to their humanitarian responsibilities, in particular with respect to the impending famine in Chin state;
 8. Notes that 37 visits by UN envoys in the past 20 years have not secured a single reform by the Burmese State Peace and Development Council (SPDC), and draws attention to the UN Security Council Presidential Statement of 11 October 2007 on the situation in Myanmar (S/PRST/2007/37), which has also been ignored by the SPDC; calls for timelines and benchmarks to be set for reform, and for the UN Security Council to resolve to take further action on Burma if the timelines and benchmarks are not met;

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9. Calls on the Burmese Government to progressively implement the four core human rights elements requested by the UN Special Rapporteur, namely: freedom of expression, assembly and association; release of prisoners of conscience; transition to a multiparty democratic and civil government; and an independent and impartial judiciary;
10. Calls on the Secretary-General of the United Nations to press ahead with a second visit to Burma in December 2008, irrespective of prevailing conditions, in order to make an urgent personal appeal for the release of all political prisoners and the full inclusion of the NLD in preparations for the 2010 elections, and to emphasise that UN demands must be met;
11. Calls on the European Council to use its meeting on 11-12 December 2008 to review Council Regulation (EC) No 194/2008 of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar⁽¹⁾, to broaden targeted sanctions to include access to international banking services for companies, conglomerates and businesses owned by or closely linked to the Burmese military, to halt all imports of Burmese manufactured clothing, and to terminate access by selected generals and their families to business opportunities, health care, consumer purchases, and foreign education;
12. Calls on the Commission to explain what action it intends to take with respect to the UN admission that a percentage of all humanitarian aid remitted to Burma is falling victim to state-sponsored exchange rate abuse;
13. Expresses grave concern that the 'Investigation Body' established by the Burmese military authorities to investigate the deaths, arrests and disappearances linked to the peaceful demonstrations of September 2007 has produced no response, and calls on the Burmese authorities to facilitate the operation of a UN-sanctioned investigative commission;
14. Urges the Governments of China, India and Russia to use their considerable economic and political leverage with the Burmese authorities in order to bring about substantial improvements in the country and to cease the supply of weaponry and other strategic resources;
15. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the EU Special Envoy for Burma, the SPDC, the Governments of the Association of South East Asian Nations' (ASEAN) and ASEM member states, the ASEM secretariat, ASEAN's Inter-Parliamentary Myanmar Caucus, Aung San Suu Kyi, the NLD, the UN Secretary-General, the UN High Commissioner for Human Rights and the UN Special Rapporteur on the situation of human rights in Myanmar.

⁽¹⁾ OJ L 66, 10.3.2008, p. 1.

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III

(Preparatory acts)

EUROPEAN PARLIAMENT

Agreement on Scientific and Technological Cooperation: EC and New Zealand *

P6_TA(2008)0478

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council decision on the conclusion on behalf of the European Community of the Agreement on Scientific and Technological Cooperation between the European Community of the one part and the Government of New Zealand of the other part (COM(2008)0170 — C6-0292/2008 — 2008/0066(CNS))

(2010/C 15 E/21)

*(Consultation procedure)**The European Parliament,*

- having regard to the proposal for a Council decision (COM(2008)0170),
- having regard to Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) ⁽¹⁾,
- having regard to Article 170 and Article 300(2), first subparagraph, first sentence of the EC Treaty,
- having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0292/2008),
- having regard to Rule 51 and Rules 83(7) and 43(1) of its Rules of Procedure,
- having regard to the report of the Committee on Industry, Research and Energy (A6-0367/2008),

1. Approves conclusion of the agreement;
2. Instructs its President to forward its position to the Council, the Commission, and the governments and parliaments of the Member States and of New Zealand.

⁽¹⁾ OJ L 412, 30.12.2006, p. 1.

Cooperation between the International Civil Aviation Organisation and the European Community regarding security audits/inspections and related matters *

P6_TA(2008)0479

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council decision on the conclusion of a Memorandum of Cooperation between the International Civil Aviation Organisation and the European Community regarding security audits/inspections and related matters (COM(2008)0335 — C6-0320/2008 — 2008/0111(CNS))

(2010/C 15 E/22)

*(Consultation procedure)**The European Parliament,*

- having regard to the proposal for a Council decision (COM(2008)0335),
- having regard to Articles 80(2) and 300(2), first subparagraph, first sentence, of the EC Treaty,

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- having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0320/2008),
 - having regard to Rules 51, 83(7) and 43(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0374/2008),
1. Approves conclusion of the Memorandum of Cooperation;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and the International Civil Aviation Organisation.

Civil liability in respect of the use of motor vehicles (codified version) *I**

P6_TA(2008)0480

European Parliament legislative resolution of 21 October 2008 on the proposal for a directive of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (codified version) (COM(2008)0098 — C6-0144/2008 — 2008/0049(COD))

(2010/C 15 E/23)

(Codecision procedure — codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0098),
 - having regard to Article 251(2) and Article 95(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0144/2008),
 - having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts ⁽¹⁾,
 - having regard to Rules 80 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0380/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
 2. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 102, 4.4.1996, p. 2.

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Simple pressure vessels (codified version) *I**

P6_TA(2008)0481

European Parliament legislative resolution of 21 October 2008 on the proposal for a directive of the European Parliament and of the Council relating to simple pressure vessels (codified version) (COM(2008)0202 — C6-0172/2008 — 2008/0076(COD))

(2010/C 15 E/24)

(Codecision procedure — codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0202),
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0172/2008),
 - having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts ⁽¹⁾,
 - having regard to Rules 80 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0381/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
 2. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 102, 4.4.1996, p. 2.

Supplementary protection certificate for medicinal products (codified version)*I**

P6_TA(2008)0482

European Parliament legislative resolution of 21 October 2008 on the proposal for a regulation of the European Parliament and of the Council concerning the supplementary protection certificate for medicinal products (codified version) (COM(2008)0369 — C6-0244/2008 — 2008/0126(COD))

(2010/C 15 E/25)

(Codecision procedure — codification)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0369),
- having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0244/2008),

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- having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts ⁽¹⁾,
 - having regard to Rules 80 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0385/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
 2. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 102, 4.4.1996, p. 2.

Application of the Protocol on the excessive deficit procedure annexed to the EC Treaty (codified version) *

P6_TA(2008)0483

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council regulation on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community (codified version) (COM(2008)0073 — C6-0147/2008 — 2008/0053(CNS))

(2010/C 15 E/26)

(Consultation procedure — codification)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0073),
 - having regard to Article 104, paragraph 14, subparagraph 3, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0147/2008),
 - having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts ⁽¹⁾,
 - having regard to Rules 80 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0386/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
 2. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 102, 4.4.1996, p. 2.

Tuesday 21 October 2008

Certain categories of agreements and concerted practices in the air transport sector (codified version) *

P6_TA(2008)0484

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council regulation on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector (codified version) (COM(2008)0367 — C6-0272/2008 — 2008/0124(CNS))

(2010/C 15 E/27)

(Consultation procedure — codification)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0367),
 - having regard to Article 83 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0272/2008),
 - having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts ⁽¹⁾,
 - having regard to Rules 80 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0379/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
 2. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 102, 4.4.1996, p. 2.

System of the Communities' own resources *

P6_TA(2008)0485

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council regulation amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 2000/597/EC, Euratom on the system of the Communities' own resources (COM(2008)0223 — C6-0197/2008—2008/0089(CNS))

(2010/C 15 E/28)

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0223),
- having regard to Article 279(2) of the EC Treaty and Article 183 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C6-0197/2008),

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- having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾ and in particular Declaration No 3 on the review of the financial framework, annexed to that agreement,
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets (A6-0342/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty and pursuant to Article 119, second paragraph, of the Euratom Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 1

Proposal for a regulation — amending act Recital 1

(1) The European Council meeting in Brussels on 15 and 16 December 2005 issued a number of conclusions concerning the system of the Communities' own resources, which led to the adoption of Decision 2007/436/EC, Euratom.

(1) The European Council meeting in Brussels on 15 and 16 December 2005 issued a number of conclusions concerning the system of the Communities' own resources, which led to the adoption of Decision 2007/436/EC, Euratom; **it also called on the Commission to undertake a full, wide-ranging review covering all aspects of EU spending and of resources and to report in 2008/2009.**

Amendment 2

Proposal for a regulation — amending act Recital 1a (new)

(1a) The Commission will therefore undertake a general review of the operation of the own resources system, accompanied by appropriate proposals for which the work and recommendations of the European Parliament will be fully taken into account, in compliance with the conditions laid down in Declaration No 3 on the review of the financial framework, annexed to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

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European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters *

P6_TA(2008)0486

European Parliament legislative resolution of 21 October 2008 on the draft Council framework decision on the European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters (13076/2007 — C6-0293/2008 — 2003/0270(CNS))

(2010/C 15 E/29)

(Consultation procedure — renewed consultation)

The European Parliament,

- having regard to Council draft (13076/2007),
 - having regard to the Commission proposal to the Council (COM(2003)0688),
 - having regard to its position of 31 March 2004 ⁽¹⁾,
 - having regard to Article 34(2)(b) of the EU Treaty,
 - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0293/2008),
 - having regard to Rules 93, 51 and 55(3) of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0408/2008),
1. Approves the Council draft as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend its draft substantially;
 5. Should this text not be adopted prior to the entry into force of the Treaty of Lisbon, is determined to consider any subsequent proposal by urgent procedure, in close cooperation with the national parliaments;
 6. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 103 E, 29.4.2004, p. 659.

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Amendment 1
Council draft
Recital 8

(8) The principle of mutual recognition is based on a high level of confidence between Member States. In order to promote this confidence, this Framework Decision should contain important safeguards to protect fundamental rights. The EEW should therefore be issued only by judges, ***courts***, investigating magistrates, public prosecutors ***and certain other judicial authorities as defined by Member States in accordance with this Framework Decision.***

(8) The principle of mutual recognition is based on a high level of confidence between Member States. In order to promote this confidence, this Framework Decision should contain important safeguards to protect fundamental rights. The EEW should therefore be issued only by judges, investigating magistrates ***and*** public prosecutors.

Amendment 2
Council draft
Recital 9

(9) This Framework Decision is adopted under Article 31 of the Treaty and therefore concerns judicial cooperation within the context of that provision, aiming to assist the collection of evidence for proceedings as defined in Article 5 of this Framework Decision. ***Although authorities other than judges, courts, investigating magistrates and public prosecutors may have a role in the collection of such evidence in accordance with Article 2(c)(ii), this Framework Decision does not cover police, customs, border and administrative cooperation which are regulated by other provisions of the Treaties.***

(9) This Framework Decision is adopted under Article 31 of the Treaty and therefore concerns judicial cooperation within the context of that provision, aiming to assist the collection of evidence for proceedings as defined in Article 5 of this Framework Decision. This Framework Decision does not cover police, customs, border and administrative cooperation which are regulated by other provisions of the Treaties.

Amendment 3
Council draft
Recital 24a (new)

24a. It is of paramount importance to adopt Framework Decision 2008/.../JHA of ... on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters as soon as possible, providing for an adequate level of data protection and including the processing of personal data at national level.

Amendment 4
Council draft
Recital 25

(25) The EEW should coexist with existing mutual assistance procedures, but such coexistence should be considered transitional until, in accordance with the Hague Programme, the types of evidence-gathering excluded from the scope of this Framework Decision are also the subject of a mutual recognition instrument, the adoption of which would provide a complete mutual recognition regime to replace mutual assistance procedures.

(25) The EEW should coexist with existing mutual assistance procedures, but such coexistence should be considered transitional until, in accordance with the Hague Programme, the types of evidence-gathering excluded from the scope of this Framework Decision are also the subject of a mutual recognition instrument, the adoption of which would provide a complete mutual recognition regime to replace mutual assistance procedures. ***The European Commission should at***

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AMENDMENTS

the earliest opportunity present proposals aimed at completing the framework for recognition of criminal evidence, while also consolidating the legislation already adopted.

The Commission is also invited to encourage efforts to harmonise the system for obtaining evidence in the Member States. Harmonisation represents the best foundation for cooperation in criminal matters.

Amendment 5

Council draft

Recital 25a (new)

(25a) The European Commission should at the earliest opportunity present a proposal for a legislative instrument concerning procedural safeguards in criminal proceedings.

Amendment 6

Council draft

Article 2 — point c

(c) 'issuing authority' shall mean:

(i) a judge, **a court**, an investigating magistrate, a public prosecutor; **or**

(ii) *any other judicial authority as defined by the issuing State and, in the specific case, acting in its capacity as an investigating authority in criminal proceedings with competence to order the obtaining of evidence in cross-border cases in accordance with national law;*

(c) 'issuing authority' shall mean: a judge, investigating magistrate or public prosecutor **competent under national law to issue a European Evidence Warrant;**

Amendment 7

Council draft

Article 4 — paragraph 1a (new)

1a. The European Evidence Warrant is an instrument available to both the defence and the prosecution. Consequently, both the defence and the prosecution may ask the competent judicial authority to issue a European Evidence Warrant.

Amendment 8

Council draft

Article 4 — paragraph 6

6. Notwithstanding paragraph 2, the EEW may, if requested by the issuing authority, also cover taking statements from persons present during the execution of the EEW and directly related to the subject of the EEW. The relevant rules of the executing State applicable to national cases shall also be applicable in respect of the taking of such statements.

deleted

Amendment 9

Council draft

Article 7 — paragraph 1 — point ba new

(ba) the objects, documents or data are such as to be admissible in the proceedings for which they are sought.

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Amendment 10**Council draft****Article 7 — paragraph 1a (new)**

The issuing authority shall certify in the warrant that the conditions laid down in the first paragraph have been fulfilled.

Amendment 11**Council draft****Article 8 — paragraph 2**

2. Each Member State may designate a central authority or, when its legal system so provides, more than one central authority to assist the competent authorities. ***A Member State may, if necessary as a result of the organisation of its internal judicial system, make its central authority(ies) responsible for the administrative transmission and reception of the EEW as well as for other official correspondence relating thereto.***

2. Each Member State may designate a central authority or, when its legal system so provides, more than one central authority to assist the competent judicial authorities.

Amendment 12**Council draft****Article 10 — paragraph 3a (new)**

3a. Anyone affected by an exchange of data carried out in accordance with the present framework decision may claim the right to data protection, including blocking, correction, deletion and access to information pertaining to them, as well as access to any means of redress to which they are entitled under the legislation of the issuing State or the executing State.

Amendment 13**Council draft****Article 11 — paragraph 4**

4. If the issuing authority is not a judge, a court, an investigating magistrate or a public prosecutor and the EEW has not been validated by one of those authorities in the issuing State, the executing authority may, in the specific case, decide that no search or seizure may be carried out for the purpose of the execution of the EEW. Before so deciding, the executing authority shall consult the competent authority of the issuing State.

deleted

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Amendment 14
Council draft
Article 11 — paragraph 5

5. A Member State may, at the time of adoption of this Framework Decision, make a declaration or subsequent notification to the General Secretariat of the Council requiring such validation in all cases where the issuing authority is not a judge, a court, an investigating magistrate or a public prosecutor and where the measures necessary to execute the EEW would have to be ordered or supervised by a judge, a court, an investigating magistrate or a public prosecutor under the law of the executing State in a similar domestic case.

deleted

Amendment 15
Council draft
Article 11a (new)

Article 11a

Safeguards for execution

1. Each Member State shall take the necessary measures to ensure that the European Evidence Warrant is executed in accordance with the following minimum conditions:

- (a) the executing authority shall use the least intrusive means necessary to obtain the objects, documents or data;
- (b) a natural person shall not be required to produce objects, documents or data which may result in self-incrimination under the legislation of the issuing State or the executing State; and
- (c) the issuing authority shall be informed immediately if the executing authority discovers that the warrant was executed in a manner contrary to the law of the executing State.

2. Each Member State shall take the necessary measures to ensure that, where a search and seizure is considered necessary in order to obtain objects, documents or data, the following minimum safeguards shall apply:

- (a) a search of premises shall not start at night, unless this is exceptionally necessary due to the particular circumstances of the case;
- (b) a person whose premises have been searched shall be entitled to receive written notification of the search. This shall state, as a minimum, the reason for the search, the objects, documents or data seized, and the legal remedies available; and
- (c) in the absence of the person whose premises are being searched, the notification described in point (b) shall be provided to that person by leaving the notification on the premises or by other suitable means.

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Amendment 16**Council draft
Article 12**

The executing authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided in this Framework Decision and provided that such formalities and procedures are not contrary to the fundamental principles of law of the executing State. ***This Article shall not create an obligation to take coercive measures.***

Without prejudice to Article 11a, the executing authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided in this Framework Decision and provided that such formalities and procedures are not contrary to the fundamental principles of law of the executing State.

Amendment 17**Council draft
Article 12 — paragraph 1a (new)**

The issuing authority may also require the executing authority to:

- (a) preserve the confidentiality of the investigation and its content except to the extent necessary for the execution of the warrant;***
- (b) allow a competent authority from the issuing State or an interested party designated by the issuing authority to be present at the execution of the warrant and to have access, under the same conditions as the executing authority, to any object, document or item of data obtained on that occasion;***
- (c) record the names of the people through whose hands the evidence has passed between the execution of the warrant and its transfer to the issuing State.***

Amendment 18**Council draft
Article 13 — paragraph 1 — point aa (new)**

- (aa) if the offence on which it is based is covered by amnesty in the executing Member State, where that State had jurisdiction to prosecute the offence under its own criminal law;***

Amendment 19**Council draft
Article 13 — paragraph 1 — point ab (new)**

- (ab) if the person who is the subject of the European Evidence Warrant may not, owing to his age, be held criminally responsible for the acts on which the evidence warrant is based under the law of the executing Member State;***

Amendment 20**Council draft
Article 13 — paragraph 1 — point e**

- (e) if, in one of the cases referred to in Article 11(4) or (5), the EEW has not been validated;*** ***deleted***

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AMENDMENTS

Amendment 21

Council draft

Article 13 — paragraph 1 — point f

- (f) if the EEW relates to criminal offences which: *deleted*
- (i) *under the law of the executing State are regarded as having been committed wholly or for a major or essential part within its territory, or in a place equivalent to its territory; or*
 - (ii) *were committed outside the territory of the issuing State, and the law of the executing State does not permit legal proceedings to be taken in respect of such offences where they are committed outside that State's territory;*

Amendment 22

Council draft

Article 13 — paragraph 2

2. The decision to refuse the execution or recognition of the EEW pursuant to paragraph 1 shall be taken by a judge, court, investigating magistrate or public prosecutor in the executing State. **Where the EEW has been issued by a judicial authority referred to in Article 2(c)(ii), and the EEW has not been validated by a judge, court, investigating magistrate or public prosecutor in the issuing State, the decision may also be taken by any other judicial authority competent under the law of the executing State if provided for under that law.**

2. The decision to refuse the execution or recognition of the EEW pursuant to paragraph 1 shall be taken by a judge, court, investigating magistrate or public prosecutor in the executing State.

Amendment 23

Council draft

Article 13 — paragraph 3

3. Any decision under paragraph 1(f)(i) in relation to offences committed partly within the territory of the executing State, or in a place equivalent to its territory, shall be taken by the competent authorities referred to in paragraph 2 in exceptional circumstances and on a case-by-case basis, having regard to the specific circumstances of the case, and in particular to whether a major or essential part of the conduct in question has taken place in the issuing State, whether the EEW relates to an act which is not a criminal offence under the law of the executing State and whether it would be necessary to carry out a search and seizure for the execution of the EEW. *deleted*

Amendment 24

Council draft

Article 13 — paragraph 4

4. Where a competent authority considers using the ground for refusal under paragraph 1(f)(i), it shall consult Eurojust before taking the decision. *deleted*

Where a competent authority is not in agreement with Eurojust's opinion, Member States shall ensure that it give the reasons for its decision and that the Council be informed.

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Amendment 25
Council draft
Article 13 — paragraph 5

5. In cases referred to in paragraph 1(a), (g) and (h), before deciding not to recognise or not to execute an EEW, either totally or in part, the competent authority in the executing State shall consult the competent authority in the issuing State, by any appropriate means, and shall, where appropriate, ask it to supply any necessary information without delay.

5. In cases referred to in paragraph 1(a), **(aa), (ab)**, (g) and (h), before deciding not to recognise or not to execute an EEW, either totally or in part, the competent authority in the executing State shall consult the competent authority in the issuing State, by any appropriate means, and shall, where appropriate, ask it to supply any necessary information without delay.

Amendment 26
Council draft
Article 14 — paragraph 2 — introductory part

2. If it is necessary to carry out a search or seizure for the execution of the EEW, the following offences, **if they are punishable in the issuing State by a custodial sentence or a detention order for a maximum period of at least three years and** as they are defined by the law of **that** State, shall not be subject to verification of double criminality under any circumstances:

2. If it is necessary to carry out a search or seizure for the execution of the EEW, the following offences as they are defined by the law of **the issuing** State, shall not be subject to verification of double criminality under any circumstances:

Amendment 27
Council draft
Article 15 — paragraph 3

3. Unless **either** grounds for postponement under Article 16 **exist** or the executing authority has the objects, documents or data sought already in its possession, the executing authority shall take possession of the objects, documents or data **without delay and, without prejudice to paragraph 4**, no later than 60 days after the receipt of the EEW by the competent executing authority.

3. Unless **one of the** grounds for postponement under Article 16 **justifies it** or the executing authority has the objects, documents or data sought already in its possession, the executing authority shall take possession of the objects, documents or data **as early as possible and** no later than 60 days after the receipt of the **European Evidence Warrant** by the competent executing authority, **without prejudice to paragraph 4**.

Amendment 28
Council draft
Article 15 — paragraph 3a (new)

3a. In the absence of an action brought in accordance with Article 18 and unless one of the grounds for postponement referred to in Article 16 justifies it, the executing State shall transfer to the issuing State the objects, documents or data obtained by virtue of the European Evidence Warrant, immediately where the latter are already under the control of the executing authority or, where this is not the case, as early as possible and no later than 30 days following the date on which the executing authority takes possession of the evidence.

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When the objects, documents or data obtained are transferred, the executing authority shall state whether it requires them to be returned to the State of execution as soon as they cease to be needed by the issuing State.

Amendment 29

Council draft

Article 15 — paragraph 4

4. When it is not practicable ***in a specific case*** for the competent executing authority to meet the deadline set out ***in paragraphs 2 or 3 respectively***, it shall without delay inform the competent authority of the issuing State ***by any means***, giving the reasons for the delay and the estimated time needed for the action to be taken.

4. When it is not practicable ***under exceptional circumstances*** for the competent executing authority to meet the deadline set out ***in this Article***, it shall without delay inform ***Eurojust and*** the competent authority of the issuing State ***in writing***, giving the reasons for the delay and the estimated time needed for the action to be taken.

Amendment 30

Council draft

Article 15 — paragraph 5

5. ***Unless a legal remedy is pending in accordance with Article 18 or grounds for postponement under Article 16 exist, the executing State shall without undue delay transfer the objects, documents or data obtained under the EEW to the issuing State.***

deleted

Amendment 31

Council draft

Article 15 — paragraph 6

6. ***When transferring the objects, documents or data obtained, the executing authority shall indicate whether it requires them to be returned to the executing State as soon as they are no longer required by the issuing State.***

deleted

Amendment 32

Council draft

Article 17a (new)

Article 17a

Subsequent use of evidence

The use of the evidence acquired pursuant to this Framework Decision shall in no way prejudice the rights of the defence in subsequent criminal proceedings.

These rights shall be fully respected, in particular as regards the admissibility of the evidence, the obligation to disclose that evidence to the defence and the ability of the defence to challenge that evidence.

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Amendment 33
Council draft
Article 18 — paragraph 1

1. Member States shall put in place the necessary arrangements to ensure that any interested party, including bona fide third parties, have legal remedies against the recognition and execution of an EEW pursuant to Article 11, in order to preserve their legitimate interests. **Member States may limit the legal remedies provided for in this paragraph to cases in which the EEW is executed using coercive measures.** The action shall be brought before a court in the executing State in accordance with the law of that State.

1. Member States shall put in place the necessary arrangements to ensure that any interested party, including bona fide third parties, have legal remedies against the recognition and execution of an EEW pursuant to Article 11, in order to preserve their legitimate interests. The action shall be brought before a court in the executing State in accordance with the law of that State.

Amendment 34
Council draft
Article 23 — paragraph 1

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by ...

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by ... **and they shall do everything they can to agree before that date on a Framework Decision on procedural rights in criminal proceedings throughout the European Union, taking the European Parliament's opinion into consideration.**

Amendment 35
Council draft
Article 23 — paragraph 1a (new)

1a. Member States shall indicate, in a declaration lodged with the Secretariat-General of the Council, the national bodies appointed to act as issuing authorities and executing authorities.

Amendment 36
Council draft
Article 23 — paragraph 3

3. Any Member State that intends to transpose the ground for refusal set out in Article 13(1)(f) into its national law shall notify the Secretary General of the Council thereof upon adoption of this Framework Decision by making a declaration.

deleted

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AMENDMENTS

Amendment 37

Council draft

Article 23 — paragraph 4

4. Germany may by a declaration reserve its right to make the execution of an EEW subject to verification of double criminality in cases referred to in Article 14(2) relating to terrorism, computer-related crime, racism and xenophobia, sabotage, racketeering and extortion or swindling if it is necessary to carry out a search or seizure for the execution of the EEW, except where the issuing authority has declared that the offence concerned under the law of the issuing State falls within the scope of criteria indicated in the declaration. *deleted*

Should Germany wish to make use of this paragraph, it shall notify a declaration to that effect to the Secretary-General of the Council upon the adoption of this Framework Decision. The declaration shall be published in the Official Journal of the European Union.

Amendment 38

Council draft

Article 23 — paragraph 5a (new)

5a. Each year, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Framework Decision, paying special attention to the application of procedural safeguards.

Amendment 39

Council draft

Article 24 — paragraph 2

2. At the beginning of every calendar year, Germany shall inform the Council and the Commission of the number of cases in which the ground for non-recognition or non-execution referred to in Article 23(4) was applied in the previous year. *deleted*

Amendment 40

Council draft

Annex — Section B — point iia (new)

(iia) the objects, documents and data sought by this warrant are likely to be admissible in the proceedings for which they are sought.

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AMENDMENTS

Amendment 41
Council draft
Annex — Section C — point d

(d) *any other judicial authority as defined by the issuing State and, in the specific case, acting in their capacity as an investigating authority in criminal proceedings with competence to order the obtaining of evidence in cross-border cases in accordance with national law.* **deleted**

This EEW has been validated by a judge or court, investigating magistrate or a public prosecutor (see sections D and O).

Amendment 42
Council draft
Annex — Section D

(D) **THE JUDICIAL AUTHORITY VALIDATING THE EEW (WHERE APPLICABLE)** **deleted**

If point (d) in Section C has been ticked and this EEW is validated, tick the type of judicial authority which has validated this EEWt:

- (a) *judge or court*
- (b) *investigating magistrate*
- (c) *public prosecutor*

Official name of the validating authority:

.....

Name of its representative

.....

Post held (title/grade)

.....

File reference

.....

Address:

.....

.....

Tel. No: (country code) (area/city code)

Fax No: (country code) (area/city code):

E-mail:

Tuesday 21 October 2008

COUNCIL DRAFT

AMENDMENTS

Amendment 43
Council draft
Annex — Section E

(E) WHERE A CENTRAL AUTHORITY HAS BEEN *deleted*
 MADE RESPONSIBLE FOR THE ADMINISTRATIVE
 TRANSMISSION AND RECEPTION OF EEWS AND, IF
 APPLICABLE, FOR OTHER OFFICIAL CORRE-
 SPONDENCE RELATING THERETO

Name of the central authority:

.....

Contact person, if applicable (title/grade and name):

.....

Address:

.....

File reference:

Tel. No: (country code) (area/city code):

Fax No: (country code) (area/city code)

E-mail:

Amendment 44
Council draft
Annex — Section F

(F) THE AUTHORITY OR AUTHORITIES WHICH MAY *deleted*
 BE CONTACTED (IN THE CASE WHERE SECTION D
 AND/OR E HAVE BEEN COMPLETED):

Authority under section C

Can be contacted for questions concerning

Authority under section D

Can be contacted for questions concerning

Authority under section E

Can be contacted for questions concerning

Tuesday 21 October 2008

COUNCIL DRAFT

AMENDMENTS

Amendment 45**Council draft****Annex — Section I — Footnote**

Where the EEW is addressed to Germany, and according to the declaration made by Germany in accordance with Article 23(4) of the Council Framework Decision 2007/.../JHA ⁽¹⁾ of ... on the European Evidence Warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters, the issuing authority may additionally complete box N.1 to confirm that the offence(s) fall(s) within the scope of criteria indicated by Germany for this type of offence.

deleted⁽¹⁾ OJ L ...**Amendment 46****Council draft****Annex — Section N — point 1**

Optional information to be given only in relation to Germany: *deleted*

- It is declared that the offence(s) concerned under the law of the issuing State falls(s) within the scope of criteria indicated by Germany in the declaration made in accordance with Article 23(4) of Framework Decision ...*

Recovery of cod stocks *

P6_TA(2008)0487

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council regulation amending Regulation (EC) No 423/2004 as regards the recovery of cod stocks and amending Regulation (EEC) No 2847/93 (COM(2008)0162 — C6-0183/2008 — 2008/0063(CNS))

(2010/C 15 E/30)

(Consultation procedure)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2008)0162),

— having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0183/2008),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on Fisheries (A6-0340/2008),

Tuesday 21 October 2008

1. Approves the Commission proposal as amended;
2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
5. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 1

Proposal for a regulation — amending act Recital 1

(1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the reductions in cod catches arising from the collective effect of total allowable landings (TACs), technical measures and complementary effort management measures have been far from sufficient to reduce fishing mortalities to levels required to allow the cod stocks to rebuild and none of the four cod stocks covered by Regulation (EC) No 423/2004 show clear signs of recovery.

(1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the reductions in cod catches arising from the collective effect of total allowable landings (TACs), technical measures and complementary effort management measures **(including monitoring and control to prevent the catching and landing of cod caught by illegal, unreported or unregulated fishing)** have been far from sufficient to reduce fishing mortalities to levels required to allow the cod stocks to rebuild and none of the four cod stocks covered by Regulation (EC) No 423/2004 show clear signs of recovery, **although stocks in the North and Celtic Seas are showing some signs of improvement.**

Amendment 2

Proposal for a regulation — amending act Recital 4a (new)

(4a) Effective fisheries management mechanisms should be developed in cooperation with the fishing industry. To this end, evaluation and decision-making should involve the relevant Regional Advisory Councils and Member States.

Amendment 3

Proposal for a regulation — amending act Recital 5

(5) New mechanisms must be introduced, to encourage fishermen to engage in cod-avoidance programmes.

(5) New mechanisms must be introduced, to encourage fishermen **and Member States** to engage in cod-avoidance programmes. **All cod caught ought to be landed, rather than discarded, so as to enable proper scientific evaluation of stocks.**

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TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 4**Proposal for a regulation — amending act**
Recital 5a (new)

(5a) Any such cod-avoidance programmes are more likely to succeed if they are developed in cooperation with the fishing industry; accordingly, cod-avoidance programmes developed within Member States should be considered an effective means of promoting sustainability, and the development of such programmes should be encouraged alongside the operation of the relevant Community legislation.

Amendment 5**Proposal for a regulation — amending act**
Recital 5b (new)

(5b) Member States should exercise their power to allocate access to fishing for cod stocks so as to encourage their fishermen to fish in ways that result in more selective fishing and are less harmful to the environment.

Amendment 6**Proposal for a regulation — amending act****Article 1 — point 1**

Regulation (EC) No. 423/2004

Article 2b — point ba (new)

(ba) when cod stocks have substantially improved, the Commission should review the system of regulating the fishing effort.

Amendment 7**Proposal for a regulation — amending act****Article 1 — point 3**

Regulation (EC) No 423/2004

Article 6 — paragraph 4

4. Notwithstanding paragraph 1(b) and (c) and paragraph 2, the Council shall not set the TAC at a level that is more than 15 % below or above the TAC established in the previous year.

4. Notwithstanding paragraph 1 and paragraph 2, the Council shall not set the TAC at a level that is more than 15 % below or above the TAC established in the previous year.

Amendment 8**Proposal for a regulation — amending act****Article 1 — point 3**

Regulation (EC) No 423/2004

Article 6 — paragraph 5 — point b

(b) as appropriate a quantity **corresponding to** other relevant sources of cod mortality to be fixed on the basis of a proposal from the Commission.

(b) **an** appropriate quantity **suggested by** other relevant sources of cod mortality, **such as scientific analysis evaluating the amount of cod being killed by seals, together with an assessment of the impact of climate change on cod recovery**, to be fixed on the basis of a proposal from the Commission.

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 9**Proposal for a regulation — amending act****Article 1 — point 3**

Regulation (EC) No 423/2004

Article 7 — paragraph 1

1. **Each** three years from the date of entry into force of this Regulation, the Commission shall request STECF to evaluate the progress of each **of the** depleted cod **stocks towards recovery**.

1. **Every** three years from the date of entry into force of this Regulation, the Commission shall request STECF to evaluate the progress **towards recovery** of each depleted cod **stock**. **In addition, the Commission shall seek the views of the relevant Regional Advisory Councils and Member States as to the effective management of cod stocks.**

Amendment 10**Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Chapter IV — title

Fishing effort **limitation**Fishing effort **determination****Amendment 11****Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8a — paragraph 2 — point a

(a) for the first year of application of this Regulation the baseline shall be established as the average effort in kW-days spent during the years **2005, 2006** and **2007**, based on the advice of STECF.

(a) for the first year of application of this Regulation the baseline shall be established as the average effort in kW-days spent during the years **2004, 2005** and **2006**, based on the advice of STECF.

Amendment 12**Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8a — paragraph 3 — introductory part

3. For effort groups which on the basis of the annual evaluation of the fishing effort management data submitted in accordance with Articles 18, 19 and 20 of Regulation (EC) No .../2008 have contributed most to the total catch of cod and whose **total catch** on basis of that evaluation consists by at least 80 % of cod, the maximum allowable fishing effort shall be calculated as follows:

3. For effort groups which on the basis of the annual evaluation of the fishing effort management data submitted in accordance with Articles 18, 19 and 20 of Regulation (EC) No .../2008 have contributed most to the total catch of cod **overall** and whose **accumulated catches** on basis of that evaluation consists by at least 80 % of cod, the maximum allowable fishing effort shall be calculated as follows:

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 13**Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8a — paragraph 3 — point a

(a) where Article 6 applies, by applying to the baseline the same percentage **reduction** as that set out in Article 6 for fishing mortality;

(a) where Article 6 applies, by applying to the baseline the same percentage **change** as that set out in Article 6 for fishing mortality;

Amendment 14**Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8b — paragraph 1 — introductory part

1. For the vessels flying its flag, each Member State shall decide on a method for allocating the maximum allowable fishing effort to individual vessels, **based on the following** criteria:

1. For the vessels flying its flag, each Member State shall decide on a method for allocating the maximum allowable fishing effort to individual vessels, **in the light of a number of** criteria, **including, for example:**

Amendment 15**Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8b — paragraph 3

3. **For each effort group, the total capacity expressed both in GT and kW of the vessels having special fishing permits issued in accordance with paragraph 2 shall not be greater than the capacity of the vessels that have been active in 2007 using the gear and fishing in the geographical area concerned.**

deleted**Amendment 16****Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8d — introductory part

The maximum allowable fishing effort established in accordance with Article 8a **shall** be adapted by the Member States concerned in view of:

The maximum allowable fishing effort established in accordance with Article 8a **may** be adapted by the Member States concerned in view of:

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TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 17**Proposal for a regulation — amending act****Article 1 — point 4**

Regulation (EC) No 423/2004

Article 8e — paragraph 3

3. The transfer shall only be allowed from a donor gear grouping having shown, for cod, a catch per unit effort (cpue) larger than that of the receiving gear grouping. The Member State requesting the transfer shall provide the necessary cpue information.

3. The transfer shall only be allowed **in principle** from a donor gear grouping having shown, for cod, a catch per unit effort (cpue) larger than that of the receiving gear grouping. **Where a transfer is from one donor gear grouping to another donor gear grouping with a higher cpue, the effort transferred shall be subject to a reduction in the form of a more specifically defined correction factor.** The Member State requesting the transfer shall provide the necessary cpue information.

Amendment 18**Proposal for a regulation — amending act****Article 1 — point 6**

Regulation (EC) No 423/2004

Article 17

Article 17**Decision-making procedure**

Where this Regulation provides for decisions to be taken by the Council, the Council shall act by qualified majority on the basis of a proposal from the Commission.

deleted**Mobilising the Solidarity Fund of the European Union**

P6_TA(2008)0488

European Parliament resolution of 21 October 2008 on the proposal for a decision of the European Parliament and of the Council on the mobilisation of the EU Solidarity Fund, in accordance with point 26 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (COM(2008)0557 — C6-0318/2008 — 2008/2253(ACI))

(2010/C 15 E/31)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and to the Council (COM(2008)0557 — C6-0318/2008),
- having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management⁽¹⁾, and in particular point 26 thereof,
- having regard to the Joint Declaration of the European Parliament, the Council and the Commission, adopted during the conciliation meeting on 17 July 2008 on the EU Solidarity Fund,
- having regard to the report of the Committee on Budgets and to the opinion of the Committee on Regional Development (A6-0399/2008),

1. Approves the decision annexed to this resolution;
2. Instructs its President to sign the decision with the President of the Council and to arrange for its publication in the Official Journal of the European Union;
3. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

Tuesday 21 October 2008

ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE MOBILISATION OF THE EU SOLIDARITY FUND IN ACCORDANCE WITH POINT 26 OF THE INTERINSTITUTIONAL AGREEMENT OF 17 MAY 2006 BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION ON BUDGETARY DISCIPLINE AND SOUND FINANCIAL MANAGEMENT

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, and in particular point 26 thereof,

having regard to Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund ⁽²⁾,

having regard to the proposal from the Commission,

Whereas:

- (1) The European Union has created a European Union Solidarity Fund ('the Fund') to show solidarity with the population of regions struck by disasters.
- (2) The Interinstitutional Agreement of 17 May 2006 allows the mobilisation of the Fund within the annual ceiling of EUR 1 billion.
- (3) Regulation (EC) No 2012/2002 contains the provisions whereby the Fund may be mobilised.
- (4) France has submitted an application to mobilise the Fund, concerning a disaster caused by hurricane 'Dean' in August 2007,

HAVE DECIDED AS FOLLOWS:

Article 1

For the general budget of the European Union for the financial year 2008, the European Union Solidarity Fund shall be mobilised to provide the sum of EUR 12 780 000 in commitment and payment appropriations.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Done at Strasbourg, ...

For the European Parliament
The President

For the Council
The President

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 311, 14.11.2002, p. 3.

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Draft amending budget No 7/2008

P6_TA(2008)0489

European Parliament resolution of 21 October 2008 on Draft amending budget No 7/2008 of the European Union for the financial year 2008, Section III — Commission (14359/2008 — C6-0375/2008 — 2008/2252(BUD))

(2010/C 15 E/32)

The European Parliament,

- having regard to Article 272 of the EC Treaty and Article 177 of the Euratom Treaty,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, and particularly Articles 37 and 38,
- having regard to the general budget of the European Union for the financial year 2008, as finally adopted on 13 December 2007 ⁽²⁾,
- having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾,
- having regard to Preliminary draft amending budget No 7/2008 of the European Union for the financial year 2008, which the Commission presented on 15 September 2008 (COM(2008)0556),
- having regard to Draft amending budget No 7/2008, which the Council established on 20 October 2008 (14359/2008 — C6-0375/2008),
- having regard to Rule 69 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgets (A6-0412/2008),

A. whereas Draft amending budget No 7 to the general budget 2008 covers the following items:

- mobilisation of the EU Solidarity Fund for an amount of EUR 12 780 000 in commitment and payment appropriations relating to the effects of hurricane 'Dean' in Guadeloupe and Martinique in August 2007,
- a corresponding reduction in payment appropriations of EUR 12 780 000 from line 13 04 02 Cohesion Fund,

B. whereas the purpose of Draft amending budget No 7/2008 is to formally enter these budgetary adjustments into the 2008 budget,

1. Takes note of Draft amending budget No 7/2008, which is the first amending budget solely dedicated to the EU Solidarity Fund;
2. Approves Draft amending budget No 7/2008 unamended;
3. Instructs its President to forward this resolution to the Council and the Commission.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 71, 14.3.2008.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

Tuesday 21 October 2008

Mobilisation of the European Globalisation Adjustment Fund (Lithuania and Spain)

P6_TA(2008)0490

European Parliament resolution of 21 October 2008 on the proposal for a decision of the European Parliament and of the Council on the mobilisation of the European Globalisation Adjustment Fund, in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (COM(2008)0547 — C6-0312/2008 — 2008/2251 (ACI))

(2010/C 15 E/33)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0547 — C6-0312/2008),
 - having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, and in particular point 28 thereof,
 - having regard to Regulation (EC) No 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund ⁽²⁾,
 - having regard to the report of the Committee on Budgets and the opinion of the Committee on Employment and Social Affairs (A6-0405/2008),
- A. whereas the European Union has set up the appropriate legislative and budgetary instruments to provide additional support to workers who suffer from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market,
- B. whereas the Union's financial assistance to workers made redundant should be dynamic and made available as quickly and efficiently as possible, in accordance with the Joint Declaration of the European Parliament, the Council and the Commission adopted during the conciliation meeting on 17 July 2008, and having due regard for the Interinstitutional Agreement in respect of the adoption of decisions to mobilise the Fund,
- C. whereas Spain and Lithuania have requested assistance in respect of two cases concerning redundancies in the automobile sector in Spain and the textile sector in Lithuania, by letters of 6 February and 8 May 2008 ⁽³⁾,
1. Requests the institutions involved to make the necessary efforts to accelerate the mobilisation of the Fund;
 2. Approves the decision annexed to this resolution;
 3. Instructs its President to sign the decision with the President of the Council and arrange for its publication in the Official Journal of the European Union;
 4. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 406, 30.12.2006, p. 1.

⁽³⁾ Applications EGF/2008/002/ES/Delphi and EGF/2008/003/LT/Alytaus Tekstile.

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ANNEX

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE MOBILISATION OF THE EUROPEAN GLOBALISATION ADJUSTMENT FUND, IN ACCORDANCE WITH POINT 28 OF THE INTERINSTITUTIONAL AGREEMENT OF 17 MAY 2006 BETWEEN THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION ON BUDGETARY DISCIPLINE AND SOUND FINANCIAL MANAGEMENT

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

having regard to the Treaty establishing the European Community,

having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾, and in particular point 28 thereof,

having regard to Council Regulation (EC) No 1927/2006 of the European Parliament and of the Council 20 December 2006 on establishing the European Globalisation Adjustment Fund ⁽²⁾, and in particular Article 12(3) thereof,

having regard to the Commission proposal,

Whereas:

- (1) The European Globalisation Adjustment Fund ('the Fund') was created to provide additional support to workers who suffer from the consequences of major structural changes in world trade patterns and to assist their reintegration into the labour market.
- (2) The Interinstitutional Agreement of 17 May 2006 allows the mobilisation of the Fund within the annual ceiling of EUR 500 million.
- (3) On 6 February 2008 Spain submitted an application to deploy the Fund in respect of redundancies in the automobile sector, specifically for workers made redundant by Delphi Automotive Systems España, S.L.U. The application complies with the requirements for determining the financial contributions as laid down in Article 10 of Regulation (EC) No 1927/2006.
- (4) On 8 May 2008 Lithuania submitted an application to deploy the Fund in respect of redundancies in the textile sector, specifically for workers made redundant by Alytaus Tekstile. The application complies with the requirements for determining the financial contributions as laid down in Article 10 of Regulation (EC) No 1927/2006.
- (5) The Fund should, therefore, be mobilised in order to provide a financial contribution in respect of the applications,

HAVE DECIDED AS FOLLOWS:

Article 1

For the general budget of the European Union for the financial year 2008, the European Globalisation Adjustment Fund shall be mobilised to provide the sum of EUR 10 770 772 in commitment and payment appropriations.

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

⁽²⁾ OJ L 406, 30.12.2006, p. 1.

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Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Done at Strasbourg, ...

For the European Parliament
The President

For the Council
The President

Erasmus Mundus programme (2009-2013) *I**

P6_TA(2008)0497

European Parliament legislative resolution of 21 October 2008 on the proposal for a decision of the European Parliament and of the Council establishing an action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries (Erasmus Mundus) (2009-2013) (COM(2007)0395 — C6-0228/2007 — 2007/0145(COD))

(2010/C 15 E/34)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0395),
- having regard to Articles 251(2) and Article 149(4) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0228/2007),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on Culture and Education and the opinions of the Committee on Foreign Affairs, the Committee on Development, the Committee on Budgets, the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A6-0294/2008),

1. Approves the Commission proposal as amended;

2. Considers that the financial envelope indicated in the legislative proposal must be compatible with the ceiling of heading 1a of the new multiannual financial framework and points out that the annual amount will be decided within the annual budgetary procedure in accordance with the provisions of point 37 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾;

⁽¹⁾ OJ C 139, 14.6.2006, p. 1.

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3. Notes that the mandate of the Education, Audiovisual and Culture Executive Agency does not cover the proposed extension of the Erasmus Mundus programme; stresses that implementation of the programme by the Executive Agency will only be possible after a duly approved extension of the mandate, in accordance with the legal provisions in force;
4. Notes that the indicative overall amount of EUR 460 000 000 proposed for the financing of Action 2 of the programme would be covered by the financial envelopes of the respective external policy instruments;
5. Stresses that financing of the activities foreseen under Action 2 must not be detrimental to other activities financed under the respective instruments; reiterates its position that new actions should only be financed from the EU budget when additional financial means are provided for them; calls on the Commission to provide the Parliament with an annual report presenting detailed data on the activities under Action 2 and their breakdown by financial instrument and among the regions and countries concerned;
6. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
7. Instructs its President to forward its position to the Council and the Commission.

P6_TC1-COD(2007)0145

Position of the European Parliament adopted at first reading on 21 October 2008 with a view to the adoption of Decision No .../2008/EC of the European Parliament and of the Council establishing the Erasmus Mundus 2009-2013 action programme for the enhancement of quality in higher education and the promotion of intercultural understanding through cooperation with third countries

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Decision No 1298/2008/EC.)

Safety rules and standards for passenger ships (recast version) *I**

P6_TA(2008)0498

European Parliament legislative resolution of 21 October 2008 on the proposal for a directive of the European Parliament and of the Council on safety rules and standards for passenger ships (recast) (COM(2007)0737 — C6-0442/2007 — 2007/0257(COD))

(2010/C 15 E/35)

(Codecision procedure — recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0737),
- having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0442/2007),

Tuesday 21 October 2008

- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽¹⁾,

 - having regard to the undertakings given by the Council representative by letter of 3 September 2008 to adopt the proposal, in accordance with Article 251(2) of the EC Treaty and with the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission,

 - having regard to Rules 80a and 51 of its Rules of Procedure,

 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Transport and Tourism (A6-0300/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;

 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

 3. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 77, 28.3.2002, p. 1.

Genetically modified micro-organisms (recast version) *I**

P6_TA(2008)0499

European Parliament legislative resolution of 21 October 2008 on the proposal for a directive of the European Parliament and of the Council on the contained use of genetically modified micro-organisms (recast) (COM(2007)0736 — C6-0439/2007 — 2007/0259(COD))

(2010/C 15 E/36)

(Codecision procedure — recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0736),

- having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0439/2007),

Tuesday 21 October 2008

- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽¹⁾,
 - having regard to the undertakings given by the Council representative by letter of 7 October 2008 to adopt the proposal as amended, in accordance with Article 251(2), second subparagraph, first indent of the EC Treaty,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on the Environment, Public Health and Food Safety (A6-0297/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission and as amended hereunder;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 77, 28.3.2002, p. 1.

P6_TC1-COD(2007)0259

Position of the European Parliament adopted at first reading on 21 October 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council on the contained use of genetically modified micro-organisms (recast)

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/41/EC.)

Tuesday 21 October 2008

Statistical returns in respect of carriage of goods and passengers by sea (recast)

*****I**

P6_TA(2008)0500

European Parliament legislative resolution of 21 October 2008 on the proposal for a directive of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea (recast) (COM(2007)0859 — C6-0001/2008 — 2007/0288(COD))

(2010/C 15 E/37)

(Codecision procedure — recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0859),
 - having regard to Article 251(2) and Article 285(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0001/2008),
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽¹⁾,
 - having regard to the undertakings given by the Council representative by letter of 8 October 2008 to adopt the proposal as amended, in accordance with Article 251(2), second subparagraph, first indent of the EC Treaty,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Transport and Tourism (A6-0288/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission and as amended below;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

⁽¹⁾ OJ C 77, 28.3.2002, p. 1.

Tuesday 21 October 2008

P6_TC1-COD(2007)0288

Position of the European Parliament adopted at first reading on 21 October 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea (recast)

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/42/EC.)

Community statistics on trade between Member States *I**

P6_TA(2008)0501

European Parliament legislative resolution of 21 October 2008 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States (COM(2008)0058 — C6-0059/2008 — 2008/0026(COD))

(2010/C 15 E/38)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0058),
- having regard to Article 251(2) and Article 285(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0059/2008),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs (A6-0348/2008),

1. Approves the Commission proposal as amended;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council and the Commission.

P6_TC1-COD(2008)0026

Position of the European Parliament adopted at first reading on 21 October 2008 with a view to the adoption of Regulation (EC) No .../2008 of the European Parliament and of the Council amending Regulation (EC) No 638/2004 on Community statistics relating to the trading of goods between Member States

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No 222/2009.)

Tuesday 21 October 2008

Applicable law in matrimonial matters *

P6_TA(2008)0502

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council regulation amending Regulation (EC) No 2201/2003 as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters (COM(2006)0399 — C6-0305/2006 — 2006/0135(CNS))

(2010/C 15 E/39)

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2006)0399),
 - having regard to Article 61, point (c) and Article 67(1) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0305/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Legal Affairs (A6-0361/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS
BY PARLIAMENT

Amendment 1

RECITAL 6a (new)

(6a) The possibility of choosing the law applicable to divorce and to legal separation should not harm the superior interests of the child.

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT**Amendment 2****RECITAL 6b (new)**

(6b) Before the competent jurisdiction and the applicable law are designated, it is important for the spouses to have access to up-to-date information concerning the essential aspects of national and Community law and of the procedures relating to divorce and legal separation. In order to safeguard such access to information of an appropriate quality, the Commission must regularly update the information contained in the Internet-based information system for the public established by means of Council Decision No 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters ⁽¹⁾.

⁽¹⁾ OJ L 174, 27.6.2001, p. 25.

Amendment 3**RECITAL 6c (new)**

(6c) The possibility of choosing by common agreement the jurisdiction and the applicable law should be without prejudice to the rights of, and equal opportunities for, the two spouses. Hence judges in the Member States should be aware of the importance of an informed choice on the part of the two spouses concerning the legal implications of the agreement concluded.

Amendment 4**RECITAL 7a (new)**

(7a) The term 'habitual residence' should be interpreted in accordance with the purposes of this Regulation. Its meaning should be determined by the judge in each individual case and on the basis of facts. The term does not refer to a concept of national law but rather to a separate concept established in Community law.

Amendment 5**RECITAL 9a (new)**

(9a) The informed agreement of the two spouses is a basic principle of this Regulation. Each partner in the couple should know exactly what legal and social implications follow from the choice of jurisdiction and of applicable law.

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT**Amendment 6****ARTICLE 1, POINT 1**

Title (Regulation (EC) No 2201/2003)

Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility as well as **applicable law in matrimonial matters**.

Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, as well as **the law applicable to divorce and legal separation**.

Amendment 7**ARTICLE 1, POINT 1A (new)**

Article 2, point 11a (new) (Regulation (EC) No 2201/2003)

(1a) In Article 2, the following point shall be added:

11a. the term 'habitual residence' shall mean a person's place of ordinary abode.

Amendment 8**ARTICLE 1, POINT 2**

Article 3a, paragraph 1, point (a) (Regulation (EC) No 2201/2003)

(a) **any of the grounds of jurisdiction listed in Article 3 applies, or**

(a) **at the time when the agreement is concluded, the jurisdiction of that Member State is competent pursuant to Article 3, or**

Amendment 9**ARTICLE 1, POINT 2**

Article 3a, paragraph 1, point (b) (Regulation (EC) No 2201/2003)

(b) it is the **place** of the spouses' **last common** habitual residence for a minimum period of three years, or

(b) **at the time when the agreement is concluded, it is the Member State in which the spouses have had their habitual residence for a minimum period of three years, provided that this situation did not come to an end more than three years before the jurisdiction was seized, or**

Amendment 10**ARTICLE 1, POINT 2**

Article 3a, paragraph 1, point (c) (Regulation (EC) No 2201/2003)

(c) one of the spouses is a national of that Member State or, in the case of the United Kingdom and Ireland, has his or her 'domicile' in the territory of one of the latter Member States.

(c) **at the time when the agreement is concluded, one of the spouses is a national of that Member State or, in the case of the United Kingdom and Ireland, has his or her 'domicile' in the territory of one of the latter Member States.**

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT**Amendment 11****ARTICLE 1, POINT 2***Article 3a, paragraph 1, point ca (new) (Regulation (EC) No 2201/2003)**(ca) their marriage took place in that Member State.***Amendment 12****ARTICLE 1, POINT 2***Article 3a, paragraph 2 (Regulation (EC) No 2201/2003)*

2. An agreement conferring jurisdiction **shall be expressed in writing and signed by both spouses** at the latest at the time the court is seised.

2. An agreement conferring jurisdiction **may be concluded or altered at any time, but** at the latest at the time the court is seised. **It shall apply to the last court level.**

The agreement shall be expressed in writing, dated and signed by both spouses. If the law of the Member State in which one of the spouses has their habitual residence at the time the agreement is made provides for any additional formal requirements for such agreements, those requirements must be fulfilled. If the spouses have their habitual residence in different Member States whose respective laws provide for additional formal requirements, the agreement shall be valid if it complies with the requirements of the law of one of those Member States.

If the agreement forms part of a marriage contract, the formal requirements of that marriage contract must be fulfilled.

Amendment 13**ARTICLE 1, POINT 3***Articles 4 and 5 (Regulation (EC) No 2201/2003)*

(3) In Articles 4 and 5, the terms 'Article 3' are replaced by the terms 'Articles 3 **and** 3a'.

(3) In Articles 4 and 5, the terms 'Article 3' are replaced by the terms 'Articles 3, 3a **and** 7'.

Amendment 14**ARTICLE 1, POINT 5***Article 7, point a (Regulation (EC) No 2201/2003)*

(a) the spouses had their **common previous** habitual residence in the territory of that Member State for at least three years; or

(a) the spouses **previously** had their habitual residence in the territory of that Member State for at least three years, **provided that the end of that period does not precede the seisure of the jurisdiction by more than three years;** or

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT**Amendment 15****ARTICLE 1, POINT 5A (new)***Article 7a (new) (Regulation (EC) No 2201/2003)***(5a) The following article is inserted:****Article 7a****Forum necessitatis**

Where the jurisdiction which is competent pursuant to this Regulation is located in a Member State under whose law there is no provision for divorce or the existence or the validity of the marriage in question is not recognised, jurisdiction shall be granted to:

(a) the Member State of which one of the spouses is a national; or

(b) the Member State in which the marriage took place.

Amendment 16**ARTICLE 1, POINT 6***Article 12, paragraph 1 (Regulation (EC) No 2201/2003)*

(6) In Article 12 (1), the terms 'Article 3' are replaced by the terms 'Articles 3 **and** 3a'.

(6) In Article 12 (1), the terms 'Article 3' are replaced by the terms 'Articles 3, 3a **and** 7'.

Amendment 38**ARTICLE 1 — POINT 7***Article 20a — paragraph 1 — introductory part (Regulation (EC) No 2201/2003)*

1. The spouses may agree to designate the law applicable to divorce and legal separation. The spouses may agree to designate one of the following laws:

1. The spouses may agree to designate the law applicable to divorce and legal separation **provided that such law is in conformity with the fundamental rights defined in the Treaties and in the Charter of Fundamental Rights of the European Union and the principle of public policy.** The spouses may agree to designate one of the following laws:

Amendment 18**ARTICLE 1, POINT 7***Article 20a, paragraph 1, point -a (new) (Regulation (EC) No 2201/2003)*

(-a) the law of the State in which the spouses have their habitual residence at the time when the agreement is concluded;

Amendment 19**ARTICLE 1, POINT 7***Article 20a, paragraph 1, point a (Regulation (EC) No 2201/2003)*

(a) the law of the State of **the last common** habitual residence of the spouses insofar as one of them still resides there;

(a) the law of the State of habitual residence of the spouses insofar as one of them still resides there **at the time when the agreement is concluded;**

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT**Amendment 20****ARTICLE 1, POINT 7***Article 20a, paragraph 1, point b (Regulation (EC) No 2201/2003)*

(b) the law of the State of the nationality of either spouse, or, in the case of United Kingdom and Ireland, the 'domicile' of either spouse;

(b) the law of the State of the nationality of either spouse, or, in the case of United Kingdom and Ireland, the 'domicile' of either spouse **at the time when the agreement is concluded;**

Amendment 21**ARTICLE 1, POINT 7***Article 20a, paragraph 1, point c (Regulation (EC) No 2201/2003)*

(c) the law of the State where the spouses have **resided** for at least **five** years;

(c) the law of the State where the spouses have **previously had their habitual residence** for at least **three** years;

Amendments 22 and 23**ARTICLE 1, POINT 7***Article 20a, paragraph 1, point ca (new) (Regulation (EC) No 2201/2003)*

(ca) the law of the State in which the marriage took place;

Amendment 24**ARTICLE 1, POINT 7***Article 20a, paragraph 2 (Regulation (EC) No 2201/2003)*

2. An agreement designating the applicable law shall be expressed in writing and be signed by both spouses at the latest at the time the court is seised.

2. An agreement designating the applicable law shall be expressed in writing and be signed by both spouses at the latest at the time the court is seised.

However, if the law of the Member State in which one of the spouses has his or her habitual residence at the time when the agreement is concluded stipulates additional formal requirements for such agreements, those requirements must be met. If the spouses have their habitual residence in different Member States whose respective laws stipulate additional formal requirements, the agreement shall be valid if it meets the requirements of the law of one of those Member States.

If the agreement forms part of a marriage contract, the formal requirements of that contract must be met.

Amendment 25**ARTICLE 1, POINT 7***Article 20a, paragraph 2a (new) (Regulation (EC) No 2201/2003)*

2a. Should the law indicated pursuant to the first paragraph not recognise legal separation or divorce or do so in a form that is discriminatory as regards one of the spouses, the lex fori shall apply.

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSIONAMENDMENTS
BY PARLIAMENT**Amendment 27****ARTICLE 1, POINT 7***Article 20b, point a (Regulation (EC) No 2201/2003)*

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| (a) where the spouses have their common habitual residence, or failing that, | (a) where the spouses have their habitual residence at the time when the jurisdiction is seised , or failing that, |
|---|---|

Amendment 28**ARTICLE 1, POINT 7***Article 20b, point b (Regulation (EC) No 2201/2003)*

- | | |
|---|---|
| (b) where the spouse had their last common habitual residence insofar as one of them still resides there, or failing that, | (b) where the spouses had their habitual residence insofar as one of them still resides there at the time when the jurisdiction is seised , or failing that, |
|---|---|

Amendment 29**ARTICLE 1, POINT 7***Article 20b, point c (Regulation (EC) No 2201/2003)*

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| (c) of which both spouses are nationals, or, in the case of United Kingdom and Ireland, both have their 'domicile', or failing that, | (c) of which both spouses are nationals, or, in the case of the United Kingdom and Ireland, in which both spouses have their 'domicile' at the time at which the jurisdiction is seised , or failing that, |
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Amendment 30**ARTICLE 1, POINT 7***Article 20b, subparagraph 1a (new) (Regulation (EC) No 2201/2003)*

Should the law indicated pursuant to the first point not recognise legal separation or divorce or do so in a form that is discriminatory as regards one of the spouses, the lex fori shall apply.

Amendment 31**ARTICLE 1, POINT 7***Article 20ea (new) (Regulation (EC) No 2201/2003)***Article 20ea****Information from the Member States**

1. By ... at the latest (*), the Member States shall notify the Commission of their national rules concerning the formal requirements applying to agreements relating to the choice of competent jurisdiction and of the applicable law.

The Member States shall notify the Commission of any subsequent change to those rules.

2. The Commission shall make available to the public the information which has been notified to it pursuant to paragraph 1 by means of appropriate measures, in particular the European Judicial Network in civil and commercial matters.

(*) Three months after the date on which this Regulation comes into force.

Tuesday 21 October 2008

Management of fishing fleets registered in the outermost regions *

P6_TA(2008)0503

European Parliament legislative resolution of 21 October 2008 on the proposal for a Council regulation amending Regulation (EC) No 639/2004 on the management of fishing fleets registered in the Community outermost regions (COM(2008)0444 — C6-0298/2008 — 2008/0138(CNS))

(2010/C 15 E/40)

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0444),
 - having regard to Articles 37 and 299(2) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0298/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A6-0388/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 1

Proposal for a regulation — amending act
Recital 3a (new)

(3a) In addition, there are fleets in the outermost regions consisting mainly of ageing vessels (dating back over 30 years in some cases), and it is therefore essential to ensure Community support for those fleets' renewal and modernisation, especially for the small-scale fleets, in order to improve the conditions for conservation of fish and fishermen's working and safety conditions in those regions.

Amendment 2

Proposal for a regulation — amending act
Recital 4

(4) It is, therefore, appropriate to extend *for one more year* the deadline for the derogation set out in Article 2(5) of Regulation (EC) No 639/2004.

(4) It is, therefore, appropriate to extend **to 2011** the deadline for the derogation set out in Article 2(5) of Regulation (EC) No 639/2004.

Tuesday 21 October 2008

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS

Amendment 4**Proposal for a regulation — amending act****Article -1 (new)**

Regulation (EC) No 639/2004

Article 2 — paragraph 2

Article -1

Article 2(2) of Regulation (EC) No 639/2004 shall be replaced by the following:

2. by way of derogation from Article 9(1)(c)(i) of Regulation (EC) No 2792/1999, public aid to modernise the fleet in terms of tonnage and/or power may be granted, *within the limits of the specific reference levels provided for in Article 1 of this Regulation.*

Amendment 6**Proposal for a regulation — amending act****Article -1a (new)**

Regulation (EC) No 639/2004

Article 2 — paragraph 4

Article -1a

Article 2(4) of Regulation (EC) No 639/2004 shall be replaced by the following:

4. by way of derogation from Article 9(1)(a) of Regulation (EC) No 2792/1999, public aid for the renewal of fishing vessels may be granted until *31 December 2009.*

Amendment 7**Proposal for a regulation — amending act****Article 1**

Regulation (EC) No 639/2004

Article 2 — paragraph 5

In Article 2(5) of Regulation (EC) No 639/2004, '31 December 2008' shall be replaced by '**31 December 2009**'.

In Article 2(5) of Regulation (EC) No 639/2004, '31 December 2008' shall be replaced by '**31 December 2011**'.

Amendment 8**Proposal for a regulation — amending act****Article 1a (new)**

Regulation (EC) No 639/2004

Article 6

Article 1a

Article 6 of Regulation (EC) No 639/2004 shall be replaced by the following:

The Commission shall submit to the European Parliament and the Council a report on the implementation of this Regulation until the expiry of the derogations provided for herein. As regards the measures referred to in Article 2, the Commission shall propose such adjustments as might be required in the light both of the changing socio-economic needs of the regions concerned and of the status of their fish stocks.

Wednesday 22 October 2008

Approving the appointment of Baroness Ashton as a Member of the Commission

P6_TA(2008)0505

European Parliament decision of 22 October 2008 approving the appointment of Catherine Margaret Ashton, Baroness Ashton of Upholland, as a Member of the Commission

(2010/C 15 E/41)

The European Parliament,

- having regard to Article 214(2), third subparagraph, and Article 215 of the EC Treaty,
- having regard to Article 4 of the Framework Agreement on relations between the European Parliament and the Commission ⁽¹⁾,
- having regard to the resignation of Mr Peter Mandelson as a Member of the Commission, tendered on 3 October 2008,
- having regard to the nomination by the Government of the United Kingdom of Great Britain and Northern Ireland of Catherine Margaret Ashton, Baroness Ashton of Upholland, as a Member of the Commission,
- having regard to the Council Decision 2008/779/EC, Euratom of 6 October 2008 appointing a new Member of the Commission of the European Communities ⁽²⁾,
- having regard to the hearing of the Commissioner-designate before its committee responsible held on 20 October 2008,
- having regard to Rule 99 of its Rules of Procedure,

1. Approves the appointment of Catherine Margaret Ashton, Baroness Ashton of Upholland, as a Member of the Commission for the remainder of the Commission's term of office until 31 October 2009;
2. Instructs its President to forward this decision to the Council, the Commission and the governments of the Member States.

⁽¹⁾ OJ C 117 E, 18.5.2006, p. 123.

⁽²⁾ OJ L 267, 8.10.2008, p. 31.

Temporary workers ***II

P6_TA(2008)0507

European Parliament legislative resolution of 22 October 2008 on the Council common position for adopting a directive of the European Parliament and of the Council on temporary agency work (10599/2/2008 — C6-0327/2008 — 2002/0072(COD))

(2010/C 15 E/42)

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (10599/2/2008 — C6-0327/2008),
- having regard to its position at first reading ⁽¹⁾ on the Commission proposal to Parliament and the Council (COM(2002)0149),

⁽¹⁾ OJ C 25 E, 29.1.2004, p. 368.

Wednesday 22 October 2008

- having regard to the amended Commission proposal (COM(2002)0701),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A6-0373/2008),
1. Approves the common position;
 2. Notes that the act is adopted in accordance with the common position;
 3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Union;
 5. Instructs its President to forward its position to the Council, the Commission and the parliaments of the Member States.

Multiannual Community programme on protecting children using the Internet and other communication technologies *I**

P6_TA(2008)0508

European Parliament legislative resolution of 22 October 2008 on the proposal for a decision of the European Parliament and of the Council establishing a multiannual Community programme on protecting children using the Internet and other communication technologies (COM(2008)0106 — C6-0092/2008 — 2008/0047(COD))

(2010/C 15 E/43)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0106),
- having regard to Article 251(2) and Article 153 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0092/2008),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Budgets, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality, (A6-0404/2008),

Wednesday 22 October 2008

1. Approves the Commission proposal as amended;
2. Considers the financial reference amount of EUR 55 000 000 contained in Parliament's position for the implementation of the programme in the period from 1 January 2009 to 31 December 2013 must be compatible with the ceiling laid down in subheading 1a of the 2007-2013 multi annual financial framework;
3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
4. Instructs its President to forward its position to the Council and the Commission.

P6_TC1-COD(2008)0047

Position of the European Parliament adopted at first reading on 22 October 2008 with a view to the adoption of Decision No .../2008/EC of the European Parliament and of the Council establishing a multiannual Community programme on protecting children using the Internet and other communication technologies

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Decision No 1351/2008/EC.)

Promotion of clean road transport vehicles *I**

P6_TA(2008)0509

European Parliament legislative resolution of 22 October 2008 on the revised proposal for a directive of the European Parliament and of the Council on the promotion of clean and energy efficient road transport vehicles (COM(2007)0817 — C6-0008/2008 — 2005/0283(COD))

(2010/C 15 E/44)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the revised Commission proposal to the European Parliament and the Council (COM(2007)0817),
- having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0008/2008),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy, the Committee on the Internal Market and Consumer Protection and the Committee on Transport and Tourism (A6-0291/2008),

Wednesday 22 October 2008

1. Approves the Commission proposal as amended;
2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
3. Instructs its President to forward its position to the Council and the Commission.

P6_TC1-COD(2005)0283

Position of the European Parliament adopted at first reading on 22 October 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council on the promotion of clean and energy-efficient road transport vehicles

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/33/EC.)

Variations to the terms of marketing authorisations for medicinal products *I**

P6_TA(2008)0510

European Parliament legislative resolution of 22 October 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 2001/82/EC and Directive 2001/83/EC as regards variations to the terms of marketing authorisations for medicinal products (COM(2008)0123 — C6-0137/2008 — 2008/0045(COD))

(2010/C 15 E/45)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0123),
- having regard to Articles 251(2) and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0137/2008),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Agriculture and Rural Development (A6-0346/2008),

1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.
-

Wednesday 22 October 2008

P6_TC1-COD(2008)0045

Position of the European Parliament adopted at first reading on 22 October 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council amending Directive 2001/82/EC and Directive 2001/83/EC, as regards variations to the terms of marketing authorisations for medicinal products

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/53/EC.)

Protection of consumers in respect of certain aspects of timeshares *I**

P6_TA(2008)0511

European Parliament legislative resolution of 22 October 2008 on the proposal for a directive of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products, resale and exchange (COM(2007)0303 — C6-0159/2007 — 2007/0113(COD))

(2010/C 15 E/46)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0303),
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0159/2007),
 - having regard to the undertakings given by the Council representative by letter of 24 September 2008 to adopt the proposal as amended, in accordance with Article 251(2), second subparagraph, first indent of the EC Treaty,
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Transport and Tourism and the Committee on Legal Affairs (A6-0195/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

P6_TC1-COD(2007)0113

Position of the European Parliament adopted at first reading on 22 October 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2008/122/EC.)

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Draft general budget 2009 (Section III)

P6_TA(2008)0515

European Parliament resolution of 23 October 2008 on the draft general budget of the European Union for the financial year 2009, Section III — Commission (C6-0309/2008 — 2008/2026(BUD)) and Letter of amendment No 1/2009 (SEC(2008)2435) to the preliminary draft general budget of the European Union for the financial year 2009

(2010/C 15 E/47)

The European Parliament,

- having regard to Article 272 of the EC Treaty and Article 177 of the Euratom Treaty,
- having regard to Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources ⁽¹⁾,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾,
- having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾,
- having regard to its resolution of 24 April 2008 on the Commission's Annual Policy Strategy for 2009 ⁽⁴⁾,
- having regard to its resolution of 24 April 2008 on the budgetary framework and priorities for 2009 ⁽⁵⁾,
- having regard to its resolution of 8 July 2008 on the 2009 budget: First reflections on the 2009 Preliminary Draft Budget and mandate for the conciliation, Section III — Commission ⁽⁶⁾,
- having regard to the preliminary draft general budget of the European Union for the financial year 2009 which the Commission presented on 16 May 2008 (COM(2008)0300),
- having regard to the draft general budget of the European Union for the financial year 2009, which the Council established on 17 July 2008 (C6-0309/2008),
- having regard to Letter of amendment No 1/2009 (SEC(2008)2435) to the preliminary draft general budget of the European Union for the financial year 2009,
- having regard to Rule 69 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgets and the opinions of the other committees concerned (A6-0398/2008),

⁽¹⁾ OJ L 253, 7.10.2000, p. 42.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

⁽⁴⁾ Texts Adopted, P6_TA(2008)0174.

⁽⁵⁾ Texts Adopted, P6_TA(2008)0175.

⁽⁶⁾ Texts Adopted, P6_TA(2008)0335.

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Key issues

1. Recalls that its political priorities and its assessment of the budgetary framework for the year 2009 were set out in its two abovementioned resolutions of 24 April 2008; notes that these two resolutions provided a sound basis for its ensuing first evaluation of the Commission's preliminary draft budget (PDB) for 2009, as set out in its abovementioned PDB resolution adopted on 8 July 2008; recalls that Parliament, in this resolution, was highly critical of the low level of payment appropriations and of the small margins available in most of the headings of the Multiannual Financial Framework (MFF);
2. Welcomes the agreement of six joint statements, annexed to this Resolution, of the European Parliament and Council at the first reading conciliation on the 2009 budget of 17 July 2008; has taken them into account in the preparation of its amendments to the draft budget; points out, however, that on some issues, such as the evaluation of agencies, no joint position with Council has yet been reached;
3. Deplores the fact that Council has reduced an already low-level PDB even further: commitment appropriations in the draft budget total EUR 133 933 million which represents a decrease relative to PDB of EUR 469 million, and payment appropriations of EUR 114 972 million lie a full EUR 1 771 million beneath PDB corresponding to 0,89 % of GNI, bringing payments down to an unprecedentedly low level; underlines that this has even further increased the disparity between the level of commitments and payments, which is contrary to the principle of equilibrium;
4. Calls for the ceiling for heading 4 to be adjusted at the first opportunity to correspond to actual needs; deplores the fact that Council is not willing to budget appropriately in this way;
5. Supports Letter of amendment No 1 to the PDB 2009 adopted by the Commission on 9 September 2008, as it seems to give a slightly more realistic picture of needs in heading 4 than the PDB; regrets, however, that due to the constraints of the MFF 2007-2013 it is not in a position to take over new unforeseen and urgent needs such as food aid and the reconstruction needs of Georgia, Kosovo, Afghanistan and Palestine; underlines that it is only recourse to the possibilities provided for by the provisions of the Interinstitutional Agreement of 17 May 2006 (IIA) and firm political determination which is an absolute necessity to allow the EU to fulfil its commitments undertaken in the external policy area;
6. Considers that the figure adopted by Council for payment appropriations is far from being coherent with the various EU political priorities and commitments; expresses its astonishment that Council can officially propose a mere 0,89 % of GNI in payments, given an overall RAL of already EUR 139 000 million in 2007; in consequence, decides to increase the overall level of payments to 0,959 %;
7. Is of the opinion that the EU budget in its present format cannot address effectively and realistically the goals that the EU has set for climate change; considers that European citizens need a tangible European initiative to face the consequences of climate change; deplores the fact that the support to climate change measures is still very limited in the EU budget; is convinced that a serious effort should be made to increase and concentrate adequate financial resources to boost European leadership in facing the consequences of climate change; invites the Commission to present, by 15 March 2009, an ambitious plan for an adequate increase of climate change funds which considers the establishment of a specific 'climate change fund' or the creation of a dedicated budget line which would improve the budget capability to deal with these issues, especially by mitigation, adaptation and stabilisation measures; believes that the Emissions Trading Scheme (ETS) should also be considered as a potential resource at EU level;
8. Is not prepared to accept any kind of new earmarking in the remarks of Budget 2009; has therefore deleted all proposed new references to concrete amounts and/or to individually named organisations or bodies, since such earmarkings are not in line with the Financial Regulation;

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9. Has decided to accept Council's small cuts in the administrative expenditure lines of some multi-annual programmes given the fact that the Commission itself frequently reallocates funds from these lines by transfer in a general clearing exercise; stresses, however, that these reductions in one annual budgetary procedure must under no circumstances lead to reductions in the overall co-decided envelopes of the programmes concerned; insists that the Commission compensate for the amounts reduced in later years of the programme period;

10. Considers growth and employment, the fight against climate change and strengthening the safety and security of the European Union's citizens and its social dimension, for instance through the growth for jobs initiative and the support for SMEs and for research and innovation, as well as by supporting cohesion amongst regions, to be important priorities of Budget 2009; will reinforce appropriations on budget lines financing these priorities in line with its previous resolutions;

On sub-heading 1a

11. Is astonished by Council's additional cuts on lines supporting the Lisbon strategy which is, after all, based on a European Council decision; points out that the objectives of growth and employment are at the very core of the Lisbon strategy and that the Commission, in its PDB, had already decreased some lines compared to the previous year;

12. Will do its utmost to secure adequate financing for all activities and policies under this heading which can bring direct and tangible advantages for European citizens; is prepared to use all the available margin to finance pilot projects and preparatory actions in this sub-heading;

13. Concerning the European Institute of Innovation and Technology (EIT), cannot accept the Commission's attempt to reverse the decisions taken by the budgetary authority in the 2008 budget; will therefore insist that the budget of the EIT be included in policy area 'Research' and that its governing structure, being of an administrative nature, be financed under heading 5 of the MFF; decides to change the nomenclature accordingly;

14. Stresses that the disbursement of funds from budget line 06 03 04 (TENs Energy) and accordance of TEN-E status to any gas pipeline or project that facilitates the transmission of gas from Russia or from entities ultimately controlled by Russia shall be conditional on the realisation of the NG3 Route, as confirmed by the EU Coordinator;

On sub-heading 1b

15. Reiterates the importance it attaches to the solidarity principle within the European Union; intends to make every effort to guarantee sufficient funding for cohesion policy in order to be able to deal with current and future challenges;

16. Underlines that this sub-heading finances numerous important policies and activities aimed at fighting climate change and supporting growth for jobs;

17. Regrets that the PDB has been cut by Council in particular as regards European Social Fund financing devoted to regional competitiveness and employment; reminds Council that the Lisbon strategy is based on joint efforts from both the European Union's and the Member States' budgets;

On heading 2

18. Notes that the Commission has claimed that the fight against climate change is one of its priorities for Budget 2009; considers, however, that this priority is not sufficiently reflected in the PDB and intends, consequently, to put stronger emphasis on this key policy; proposes, for reasons of visibility, to allocate appropriations in one specific budget line solely for this purpose; will top up resources going to LIFE+ and to the European Rural Development Fund accordingly;

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19. Takes note of the recent proposals by the Commission on the CAP health check and defends the view that any modulation from the first to the second pillar must remain budgetarily neutral;

20. Notes the creation of budget lines for three new funds in the common agricultural and fisheries policy — the fund for restructuring in the dairy sector, the Eco-Aid to maintain sheep and goat farming in the EU and the ad-hoc financial instrument — Adaptation of the fishing fleet to the economic consequences of the rise in fuel prices — all of which have been created with the aim of adapting to new situations and opening up opportunities for the future, particularly in disadvantaged and sensitive regions; considers that these funds should primarily be financed from unused agriculture budget appropriations;

21. Notes with satisfaction that Council and Commission are finally willing to establish a school fruit scheme, making available a substantial annual amount to fight obesity and health problems amongst pupils, but deplores the fact that one year has been lost because this European Parliament initiative was rejected by Council in Budget 2008;

On sub-heading 3a

22. Acknowledges European citizens' wish for a safe and secure Europe and welcomes the increases in this sub-heading relative to Budget 2008; points out the importance of the principle of solidarity and of safeguarding the highest level of protection of fundamental rights;

23. Stresses the importance of sufficient funding being made available via the EU budget to manage legal immigration and integration of third country nationals while, in parallel, tackling illegal immigration and strengthening border protection, including the strengthening of the European Refugee Fund to facilitate solidarity between the Member States;

On sub-heading 3b

24. Recalls that sub-heading 3b covers vital policies that have a direct impact on the everyday life of European citizens; reiterates its disappointment about the low increase compared to 2008 proposed by the Commission for this sub-heading, especially for those activities that are important for a citizens' Europe, some of which have even suffered a decrease in their budgets;

25. Cannot accept that Council has cut these 'citizens' lines' even further, and will make sure that adequate resources are guaranteed in this important area; points out that it will make use of the small remaining margin in this sub-heading to finance pilot projects and preparatory actions to boost this policy area;

On heading 4

26. Notes the significant re-shuffling of funds carried out by Council in heading 4 and considers this a strong indication of the serious shortage of resources available under the MFF ceiling; points out that heading 4 ceilings will make regular recourse to the provisions of the IIA more and more necessary; believes that the funds available do not, as they stand, allow the European Union to assume its role as a global partner;

27. Calls on the European Council not to make far-reaching political commitments, as for example in its Presidency conclusions of 20 June 2008, in which the heads of State and government called for stronger EU financial support to developing countries, or to commit, at the same time, to the necessary budgetary suggestions and actions when there is an obvious contradiction with the funds available under the annual ceilings of the current MFF;

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28. Reiterates its assessment of the urgent need for a massive and concrete mobilisation of the European Union to tackle soaring food prices and the resulting food crisis and reiterates the need to respond in a sound budgetary way; recalls that the available margins under heading 2 cannot be spent for heading 4 purposes since the current ceiling of heading 4 does not suffice to finance the instrument without jeopardising existing priorities; considers that the two branches of the budgetary authority should make every effort and examine all possibilities provided for in the IIA to finance the amounts foreseen for food aid under heading 4; nevertheless recalls that the final decision on the financial envelope will be taken in the course of the annual budgetary procedure, and will be linked to an overall assessment of current instruments for cooperation policy with developing countries;

29. Continues to count support for the peace process in Palestine and for Kosovo amongst its unchanged key priorities for which sufficient resources have to be entered in the EU budget; notes, however, that such an adequate level of funding might require re-programming under heading 4, with some budgetary compensation being provided by other budget lines; recalls the importance of a functioning public administration which is needed to guarantee the special care necessary to ensure proper use of EU funds;

30. Welcomes the reinstatement of resources on the line for financial support for encouraging the economic development of the Turkish Cypriot community; also welcomes the support for the exhumation, identification and return of remains of missing persons in Cyprus;

31. Supports the police mission launched under the European Security and Defence Policy in Kosovo; however, asks the Commission to provide a concrete plan and timetable for the European Union Rule of Law Mission in Kosovo (EULEX), in particular with respect to the take-over of tasks from the United Nations Mission in Kosovo (UNMIK) and the related human resources needs and costs as well as the cooperation with the European Commission Liaison Office in Kosovo (ECLLO); further, asks the Commission to provide detailed information on the training given to the local forces;

32. Underlines its will to assist Georgia in its lengthy and costly reconstruction process, and to take an active part in finding an appropriate financial solution as expressed in its resolution of 3 September 2008 on the situation in Georgia⁽¹⁾; therefore urges the Commission to present proposals fulfilling the EU's commitments; insists, therefore, on observance of the politically and financially sound principle of new financing for new needs; notes in this connection the Commission's intention to consider the provision of up to EUR 500 million in the period from 2008 to 2010 inclusive and, if necessary, pledge these funds in connection with a donor conference for Georgia;

33. Notes the growing importance of the Energy Community and welcomes Turkey's intention to join it; is of the opinion that the entry of Ukraine, Georgia, Azerbaijan and Armenia into the Energy Community should be facilitated and the energy solidarity measures between its members should be developed; awaits the Commission report to be presented in 2009 on the experiences gained from the implementation of Council Decision 2006/500/EC of 29 May 2006 on the conclusion by the European Community of the Energy Community Treaty⁽²⁾;

34. Points out that the EU priority of combating climate change has also an external component and that relevant activities, such as those in connection with the Global Climate Change Alliance, are to be financed under heading 4;

35. Underlines that the Global Fund to fight AIDS, Tuberculosis and Malaria has proven to be an effective financing mechanism but deplores that the Global Fund is not an implementing agent; reminds the Commission that in order to effectively implement Global Fund grants, increased financial resources will need to be spent on technical assistance;

⁽¹⁾ Texts Adopted, P6_TA(2008)0396.

⁽²⁾ OJ L 198, 20.7.2006, p. 15.

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36. Reminds Council that the Emergency Aid Reserve is supposed to finance unforeseen emergency needs and believes not only that the appropriations on this budget line are justified but also that the deletion of these appropriations would jeopardise the EU's capacity to react properly to a possible crisis situation in the early months of 2009; therefore restores the PDB for the Emergency Aid Reserve, also in respect of Point 25 of the IIA;

On heading 5

37. Will, as a general principle, restore Council's cuts of PDB figures in this heading; notes, however, that it still has some open questions regarding specific aspects of the Commission's allocation of staff among administrative support and coordination functions and possibilities of redeployment, and the need for further information on its building policy; has decided to put some amounts in the reserve in order to make sure that it obtains answers to those questions in due time;

38. Points out that in PDB 2009 an overall amount of EUR 1 120 million is budgeted to finance administrative expenditure outside heading 5; considers this amount quite substantial;

39. Underlines the fact that administrative spending continues to rise well above the average EU level of inflation, leading to concerns as to whether taxpayers are getting value for money; calls on the Commission to launch a fundamental review of all aspects of administrative expenditure reporting on progress since the 2000 reforms, paying particular attention to the impact of the 2004 enlargement and the need to continue the search for efficiency savings; requests that this review be made available by 31 July 2009.

40. Is, in this context, concerned about the fact that the amounts taken from operational programme envelopes in order to finance executive agencies are continually increasing and have already reached a substantial level, financing over 1 300 staff in 2009; would like to get a clearer picture of the effects of the creation of executive agencies and the ongoing extensions of their tasks on those parent Directorates General which were responsible for the implementation of the relevant programmes before the executive agencies took over;

41. Notes that current data has shown that, in the Commission's Directorates General, the ratio between staff in administrative support and coordination functions and those which perform operational tasks can vary significantly; asks the Commission for an analysis of the reasons for these discrepancies;

42. Expects to be fully informed of all developments in connection with the so-called 'Holmquist' staff reform within the Commission;

43. Asks the European Personnel Selection Office (EPSO) to continue its efforts to streamline and shorten competition cycles; considers that the appropriate human resources should be provided to EPSO in support of the efforts undertaken to improve its internal procedures and methods and accelerate the management of reserve lists in order to guarantee that it can provide the institutions with the appropriate staff according to needs, including the adequacy of admissibility criteria, notably for AST posts;

44. Calls on the Council to present a calendar for the negotiations with Parliament concerning the Commission's proposals on Regulation (EC) No 1073/1999 (OLAF) to strengthen the efficiency of the European Anti-fraud Office and to clarify the legal framework of its mission;

45. Regrets the lack of consistency and coherence regularly noticeable in the communication policy implemented by the Commission's Directorates General; is in favour of the development of a coherent and recognisable 'EU identity' to be used in all communication measures; would therefore like to encourage the individual services of the Commission to fine-tune and coordinate all information and communication activities carried out at their level;

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46. Calls on the institutions to coordinate their efforts systematically with a view to:
- making information accessible to citizens on their rights and on how they are acted on in practice in the Member States,
 - improving the accessibility and transparency of European law through efficient search tools, through consolidation of texts and by using the best available technical format for at-source formatting of directives, regulations and decisions,
 - establishing, on the basis of resources available at both European and national level, a digital library on the European Union;
47. Welcomes the reform of the European Schools' system recently launched by the Commission but urges the Member States to meet their commitments according to the existing agreements; draws attention to Point 47 of the IIA according to which the authorisation of the budgetary authority is required for the creation of new schools having implications for the budget;
48. Underlines the importance of respecting Point 47 of IIA; asks the Commission to work with the budgetary authority on the definition of a proper detailed procedure for its application
49. Calls on the Commission to present the report on the possible solutions concerning the EU gas security and diversification mechanism in the NG3 corridor, including inter alia the possible role of the European Investment Bank in purchasing gas in bulk from non-traditional supplier states (having less than 5 % share of the EU market) in the NG3 corridor or in facilitating its purchase, either through direct purchase or through the creation of a purchase entity;

On agencies

50. Welcomes the Commission's decision to finally follow the requests of the budgetary authority and take assigned revenues into account when drawing up the PDB for the decentralised agencies for 2009; considers that this is undoubtedly a step towards more budgetary transparency; reiterates, however, in line with its amendments to the agencies' budgetary remarks of the Budget 2008, that those agencies depending to a large extent on revenue generated by fees should still be able to use the instrument of assigned revenues to give them the budgetary flexibility they need;
51. Welcomes the Commission's communication of 11 March 2008, entitled 'European Agencies — The way forward' (COM(2008)0135), noting, in particular, the Commission's commitment to conducting an evaluation of regulatory agencies during 2009; requests that that evaluation pay particular attention to examining the effectiveness, efficiency and impact of the agencies' work, identifying commensurate efficiency savings within the Commission's own services as work is outsourced to agencies, and that it be completed by 30 June 2009;
52. Points out the fact that smaller sized agencies tend to have a very high share of staff (50 % or more) who deal with the internal administration of the agency itself; would consider the cost-efficiency of small agencies to be one of the questions the interinstitutional working group on the future of decentralised agencies that is due to be set up in Autumn 2008 should assess;
53. Has taken note of the EUR 290 million surplus of the Office for Harmonisation in the Internal Market in the current financial year; would like the Commission to reflect on whether it might be appropriate that any excess income of the Office, being a direct consequence of the Internal Market, should flow back into the EU budget;

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54. Underlines the fact that the Euratom Supply Agency, as created by the Euratom Treaty, is an independent agency the subsidies for which should be presented in the EU budget in a transparent way;

On pilot projects and preparatory actions

55. Recalls that the IIA allows for a total amount for pilot projects of up to EUR 40 million in any budget year and for a total amount for preparatory actions of up to EUR 100 million out of which a maximum of EUR 50 million can be allocated to new preparatory actions;

56. Considers these projects an indispensable tool for Parliament to initiate new policies that are in the interest of European citizens; has analysed a series of interesting proposals out of which only a small number could be entered into the Budget 2009 due to the constraints of IIA and MFF ceilings;

57. Insists that those proposed projects and actions which have not been included in Budget 2009 due to the fact that, according to the Commission, they are already covered by an existing legal base should really be implemented under this legal base and asks the Commission to report also on those proposals within its report on the pilot projects and preparatory actions; expects the Commission to make every effort in this direction regardless of whether or not the projects and actions will eventually be explicitly mentioned in the relevant remarks of the legal bases of Budget 2009; intends to monitor closely the implementation of these projects and actions under their legal bases during the financial year 2009;

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* *

58. Takes note of the opinions adopted by the specialised committees as contained in report A6-0398/2008;

59. Instructs its President to forward this resolution, together with the amendments and proposed modifications to Section III of the draft general budget, to the Council and Commission, and also to the other institutions and bodies concerned.

ANNEX

STATEMENTS AGREED AT THE CONCILIATION OF 17 JULY 2008

1. Structural and Cohesion Funds and rural development 2007-2013 programmes

The European Parliament and the Council attach the greatest importance to a smooth and good implementation of the operational programmes and projects presented by Member States in relation with the new Structural and Cohesion Funds and rural development programmes for the 2007-2013 period.

In order to avoid repeating experiences from the early phase of the 2000-2006 programming period, acknowledging the approval of most of these operational programmes and projects the European Parliament and the Council consider that it is now very important to ensure smooth and effective implementation by approving the corresponding Management and Control Systems as soon as possible, within the timeframe established by the Regulations.

The European Parliament and the Council will therefore monitor rigorously and on a regular basis the state of approval of these Management and Control Systems in the Member States, together with the state of approval of Major Projects.

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To this end, the Commission is requested to continue to provide regularly specific monitoring tools during the budgetary procedure.

The Commission is also asked to present if necessary an updating of its payment forecasts for 2009 at the latest by the end of October 2008.'

2. Recruitment in relation with the 2004 and 2007 enlargement

'The European Parliament and the Council again stress the importance of full recruitment related to the 2004 and 2007 enlargement posts and insist that all efforts should be made by the institutions and specifically by EPSO to ensure that the necessary action is taken to speed up the whole process of filling these posts with officials. The criteria should be as stipulated in Article 27 of the Staff Regulation and aiming to arrive at the broadest possible geographical proportional basis as soon as possible.

The European Parliament and the Council intend to continue to monitor closely the ongoing recruitment process. To this effect, they request each institution and EPSO to report twice a year, in March and October, on the state of affairs regarding recruitments in relation with the 2004 and 2007 enlargement.'

3. EU Solidarity Fund

'The European Parliament, the Council and the Commission confirm the importance of ensuring a smooth process for the adoption of decisions on the mobilisation of the EU Solidarity Fund. Therefore the European Parliament and the Council welcome the Commission commitment according to which, as from now, every preliminary draft amending budget required by the mobilisation of the Solidarity Fund will be solely for that purpose.'

4. European Globalisation Adjustment Fund and Emergency Aid Reserve

'The European Parliament, the Council and the Commission confirm the importance of ensuring a rapid procedure with due respect of the Interinstitutional Agreement for the adoption of decisions on the mobilisation of the European Globalisation Adjustment Fund and of the use of the Emergency Aid Reserve.'

5. Declaration on implementation budget in 2009

'In order to ensure a smooth running of the implementation of the budget during 2009 to allow to reduce any difficulty deriving from the end of term of the European Parliament and the recess period for European elections, the European Parliament, the Council and the Commission agree on the following points:

Transfers

The Commission will ensure to introduce all requests for transfers on good time for the last ordinary meeting of the Committee on Budgets of the European Parliament, foreseen for the 27 April 2009.

In case this date cannot be met, all requests made after the date will be dealt with by the committee, following appropriate communication under an extraordinary procedure.

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Amending budgets

The Council and the Commission take note that urgent and unforeseen decisions might occur during the electoral period; a delegation of competences from the plenary to the committee on budgets could avoid unnecessary delays.'

6. Update of the financial programming under Heading 5

The European Parliament, the Council and the Commission invite the Secretaries General of all Institutions to present an updated report on the financial programming of administration expenditure under Heading 5 by the end of October.'

UNILATERAL DECLARATIONS

1. Payment appropriations

'1.1. The Council asks the Commission to submit an amending budget if the appropriations entered in the 2009 budget are insufficient to cover expenditure under sub-Heading 1a (Competitiveness for growth and employment), sub-Heading 1b (Cohesion for growth and employment), Heading 2 (Preservation and management of natural resources) and Heading 4 (EU as a global partner).'

'1.2. The European Parliament considers that during the procedure, it will evaluate the needs for payments across all headings for the whole year, based on the forecasts available in the different stages of the procedure.'

2. Structural and Cohesion Funds and rural development 2007-2013 programmes

The Commission has been asked to present by the end of October 2008 updated payments forecasts for 2009. Given the degree of uncertainty concerning implementation conditions in Member States, for such an updating the Commission will have to rely also on updated payment forecasts to be provided by Member States.

3. Evaluation of agencies

'3.1. The Council welcomes the intention of the Commission to launch a thorough evaluation of the regulatory agencies as announced in its Communication 'European Agencies — the way forward' from 11 March 2008. It also welcomes the Commission commitment not to make proposals for new regulatory agencies until the conclusion of the evaluation with the exceptions referred to in the abovementioned communication from the Commission.

The Council and the Commission agree that this evaluation should allow them to assess to what extent the regulatory agencies are an adequate tool, in the context of good governance and sound financial management, for implementing European policies at present and in the future. To this end the evaluation should allow for the comparability of the results in a horizontal manner, when possible on the basis of common indicators.

Moreover, the evaluation should especially address the following issues:

- the rationale, relevance and purpose of the agencies, in accordance with good governance;
- the impact, effectiveness and efficiency of the agencies' work, including determining factors such as programming, reporting and monitoring mechanisms;
- the budgetary process and accountability of the agencies;

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The evaluation should also aim to assess:

- the coherence of the objectives and activities of the agencies with the priorities and objectives of EU policies;
- the transparency of the agencies' work;
- the relationship between the agencies and the Commission, and where appropriate the link between regulatory agencies and national ones;
- the management of the budgetary resources of the agencies.

This evaluation would also provide to the budgetary authority adequate tools and means to assess, in the context of the allocation of the Community contribution during the annual budgetary procedure, the comparability of performance targets, administrative and operational expenditure, evolution of the staff (types and vacancy rate) and impact of the size of the agency.

The Commission intends to take into consideration the position of the Council when defining the scope and terms of reference of this evaluation in order to ensure that the aspects of greatest interest to each institution are covered, especially in the budgetary field. External independent expertise is required in order to ensure reliable, robust and complete results.'

- '3.2. The European Parliament welcomes the intention of the Commission to launch a thorough evaluation of the decentralised agencies as announced in its Communication 'European Agencies — the way forward' from 11 March 2008.

It considers an interinstitutional working group a viable structure for the constructive and output oriented debate that is necessary for this purpose and underlines that all major actors from the institutional and legislative sphere as well as representatives of the budgetary authority have to participate in this working group to guarantee satisfactory results.

The European Parliament welcomes, in particular, the launching of a thorough evaluation of the decentralised agencies as described in the Communication. This evaluation should allow to assess to what extent the decentralised agencies are an adequate tool, in the context of good governance and sound financial management, for implementing European policies at present and in the future. To this end the evaluation should allow for the comparability of the results in a horizontal manner, when possible on the basis of common indicators.

The prerogatives of the budgetary authority as safeguarded for the creation of new decentralised agencies under Point 47 of the IIA of 17 May 2006 must be fully preserved in the evaluation and control process concerning already existing agencies.'

4. Follow-up of point 32 of the conclusions of the European Council of 19-20 June 2008

'The European Parliament recalls that the financing of new measures must respect the principles laid down in the Financial Regulation (notably specification) and in the IIA of 17 May 2006 (notably the ceilings of the different headings).

It invites the Commission to present the necessary proposals for their financing in the framework of the 2008-2009 budgetary procedures.'

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Draft general budget 2009 (Sections I, II, IV, V, VI, VII, VIII and IX)

P6_TA(2008)0516

European Parliament resolution of 23 October 2008 on the draft general budget of the European Union for the financial year 2009, Section I — European Parliament, Section II — Council, Section IV — Court of Justice, Section V — Court of Auditors, Section VI — European Economic and Social Committee, Section VII — Committee of the Regions, Section VIII — European Ombudsman and Section IX — European Data Protection Supervisor (C6-0310/2008 — 2008/2026B(BUD))

(2010/C 15 E/48)

The European Parliament,

- having regard to Article 272 of the EC Treaty,
 - having regard to Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources ⁽¹⁾,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾,
 - having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾,
 - having regard to its resolution of 10 April 2008 on the guidelines for the 2009 budget procedure — other sections ⁽⁴⁾,
 - having regard to its resolution of 20 May 2008 on Parliament's estimates of revenue and expenditure for the financial year 2009 ⁽⁵⁾,
 - having regard to the preliminary draft general budget of the European Union for the financial year 2009, which the Commission presented on 16 May 2008 (COM(2008)0300),
 - having regard to the draft general budget of the European Union for the financial year 2009, which the Council established on 17 July 2008 (C6-0310/2008),
 - having regard to Rule 69 of and Annex IV to its Rules of Procedure,
 - having regard to the report of the Committee on Budgets and the opinions of the other committees concerned (A6-0397/2008),
- A. whereas the Preliminary Draft Budget (PDB) of all the institutions left a margin of EUR 121 744 018 below the ceiling of the financial framework for the financial year 2009,
- B. whereas after the Council's decision of 17 July 2008, the draft budget (DB) has a margin of EUR 224 133 714 below this ceiling,

⁽¹⁾ OJ L 253, 7.10.2000, p. 42.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

⁽⁴⁾ Texts Adopted, P6_TA(2008)0115.

⁽⁵⁾ Texts Adopted, P6_TA(2008)0208.

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- C. whereas a pilot process was agreed in which enhanced cooperation between the Bureau and the Committee on Budgets, and early mutual cooperation on all items with significant budgetary implications, would be applied throughout the 2009 procedure,
- D. whereas the prerogatives of the plenary in adopting the budget are fully maintained in accordance with the Treaty provisions and the Rules of Procedure,
- E. whereas a pre-conciliation meeting between delegations of the Bureau and the Committee on Budgets took place on 16 April 2008 in advance of the Bureau's adoption of the Preliminary Draft Estimates,
- F. whereas a conciliation meeting between these delegations took place on 30 September 2008, prior to the votes in the Committee on Budgets and in the plenary,

General Framework

1. Considers that the EU institutions, following its request that they present fully cost-based budget drafts corresponding to real needs, have cooperated in a constructive way so as now to arrive at final proposals that take into account the expectations of citizens and the need for financial rigour;
2. Stresses that it has asked for statements from all institutions on how any expenditure related specifically to the potential entry into force of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community could be identified; is satisfied, following their answers, that no such expenditure has been included in the final proposal;
3. Welcomes the Council's approach of using a more targeted method for establishing the Draft Budget as opposed to the across-the-board percentage changes previously used;
4. Stresses that, overall, there is still room for improvement and more effective use of budget resources in a number of areas and considers that these include increased inter-institutional cooperation, better use of performance targets, forecasting tools and benchmarking against best practice, further use of staff mobility and redeployment in order to keep increases in check and also demonstration of a solid grip on all expenses related to travel, allowances, translation, and especially building costs;
5. Stresses once again the importance of continuous parliamentary monitoring of the implementation of budgetary decisions, which is the base for the establishment of the annual budget; is convinced that direct parliamentary control cannot but contribute to improving the quality of spending, to a more direct control of sound financial management and eventually to a re-focusing of financial support to political priorities; believes that this objective can be reached only with the full involvement of the two budgetary committees and specialised committees;
6. Has decided to leave a margin below the ceiling of heading 5, Administrative expenditure, of EUR 76 269 100, thus limiting the overall increase to 5,8 %; emphasises that this includes restoring a part of the reductions made by Council to the budget of the institutions, but only in those cases where the specific needs of each one have been justified;

Section 1 — European Parliament

7. Stresses that its political priorities as set out in its budgetary Guidelines and Estimates resolutions of 10 April 2008 and 20 May 2008 have guided the 2009 proposals in a spirit of budgetary rigour while safeguarding the political priorities set out; considers that the outcome is fully in line with these objectives and, notably, also corresponds to the specific requirements related to 2009 as an election year for the Parliament and the challenges related to the new Statute for Members and to the change of term;

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8. Warmly welcomes the improved cooperation between the Bureau and the Committee on Budgets which has provided a solid foundation for the preparatory work leading up to the first reading of the budget, as well as during the guidelines and estimates stages; underlines the willingness of both parties to further continue and make a success of the pilot process in order to resolve differences at an early stage while, at the same time, maintaining the prerogatives of each body;

9. Considers, nevertheless, that some practical difficulties will have to be ironed out in order to facilitate and further improve cooperation, notably clear improvements on necessary information and reports being made available within appropriate time-limits before the first reading;

10. Acknowledges that significant developments, with a clear budgetary impact, have occurred since its adoption of the Estimates and that, in consequence, certain adjustments are now called for; stresses particularly, in this regard, budgetary changes brought about by the suspension of the entry into force of the Treaty of Lisbon, by the preparations for the implementation of the new Statute for Assistants, by updated forecasts for the Members' Statute and, also, by the rise in energy prices;

11. Stresses that significant developments aimed at assisting Members in the exercise of their mandate, particularly their legislative duties, have been achieved; points to the positive evaluation and establishment of the new Library Briefing Service, which will enhance Members' parliamentary activities; stresses the importance of Members being able to receive timely, objective and factual information on subjects relevant to their parliamentary activities; asks the administration to further improve the presentation of the answers to Members' enquiries, publish all requests, and not only the briefings, on the library's web site and enlarge the linguistic coverage of the information provided; wishes to be informed by way of a first evaluation at the beginning of 2010;

12. Stresses that the overall level of its budget amounts to 19,67 % of the authorised expenditure under heading 5 (administrative appropriations) of the multi-annual financial framework, i.e. it has been maintained below the self-imposed limit of 20 %; welcomes the fact that this implies a further saving of EUR 0,9 million compared to its position in May 2008; points out that this is related to a combination of factors as mentioned above;

13. Takes note of the conciliation meeting between the Bureau and the Committee on Budgets on 30 September 2008, in which the major budgetary differences were negotiated and, in the main, resolved; notes, however, that a few outstanding issues where no agreement could be reached were left to the responsibility of the Parliament;

14. Underlines the positive results and the constructive nature of this meeting; can, based on its previous resolutions and further analysis of the Estimates and Amending Letter, largely endorse the modifications to the Establishment Plan proposed by the Bureau; is not in a position, however, to fully approve all proposals;

15. Recognises that significant efforts to redeploy resources have been and will be made in order to limit staff increases and related costs;

— stresses that the overall effectiveness of the use of human resources in terms of the fulfilment of specific tasks should also be analysed and that the Bureau and the Administration will need to keep a consistent focus on this issue for future years in order to optimally balance the distribution of human resources between core legislative activities, direct services to Members and administrative support functions, as well as making the underlying assumptions and priorities better understood;

— as a first and significant step, welcomes the analytical and detailed establishment plan presented, albeit with delay and after the deadline for tabling budgetary amendments for the first reading; wishes to be kept continually informed about this issue in the future;

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— is satisfied that the current proposals will contribute positively to enhancing Parliament's law-making capacities, including with regard to the issue of comitology, as also presented in a recent report, for follow-up, to its Committee on Budgets;

16. Approves the changes to the Establishment Plan of the secretariat as contained in the tabled budgetary amendments, totalling 88 posts and 1 283 upgradings; maintains in reserve the appropriations related to a limited number of posts pending further analysis and clarification regarding the use, needs and optimal distribution of resources, as outlined above, by the end of June 2009 at the latest;

17. While being fully committed to a speedy launch of the Visitor's Centre, stresses that, following the Conciliation, some further work is still needed to arrive at a satisfactory and cost-effective solution; notes that the two delegations could not reach full agreement on this point and, in consequence, decides to partially approve the requests at this stage, while being fully prepared to revisit this issue as soon as possible and after the necessary information has been provided;

18. Recognises the needs of political groups in terms of staff resources in order to face increasing challenges and, in consequence, agrees to provide a further 53 posts; considers that a reflection on how group staffing requests and the related appropriations could be better integrated into the budgetary procedure at an earlier stage would be most welcome in order to make possible a more timely assessment of the essential requirements;

19. Points out that it has decided to boost information activities carried out in the Member States as part of its strategy and action plan for the 2009 European elections; also welcomes the idea of greater involvement of young people in the campaign process, with the aim of informing EU citizens about the role of the European Parliament;

20. Stresses that the budgetary provisions have now been put in place in order to facilitate the introduction of a new 'Regime' for Members' parliamentary assistants and warmly welcomes the work currently being done in order to reach a final agreement on this issue before the end of the year;

21. Welcomes the proposal for a Knowledge Management System to improve the dissemination of information and to manage the various information sources at administrative and political level; asks the administration to present the results of the first phase of the two-step approach by the end of March 2009;

22. Given the very substantial amounts involved, considers that the budgetary authority needs to consider the financial constraints and rising costs of purchasing, maintaining and refurbishing buildings in the coming year, especially taking into consideration the fact that the Members' Statute will come into force in 2009; asks the Bureau to submit a strategic plan by September 2009, before the 1st reading of the budget; in this light, cannot agree to an increased building reserve and decides to keep it at EUR 20 million;

23. Recalls that a clearer medium to long-term vision for buildings, including planning measures, would likely be beneficial for controlling costs; calls on its Bureau to continue efforts in this regard; asks to receive a final report on the financial, administrative and legal implications related to the issue of asbestos and, as well, to the ceiling repair works necessary in Strasbourg;

24. Reiterates that Parliament has decided that as from the entry into force of the Members' Statute, it should no longer be possible to acquire new rights under the Voluntary Pension Scheme; points out that the implementing decisions, as decided by the Bureau, permit the acquiring of new rights only for members of the Fund that are re-elected, who will fall under a transitional arrangement and who are not entitled to a national or European pension linked to their mandate; believes, as a consequence, that hardly any Members will remain eligible to acquire new rights; awaits an updated estimate from the administration as regards the appropriations needed from the entry into force of the Members' Statute;

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25. Awaits the results of the study on the carbon footprint of the European Parliament, which should also include the question of CO₂ off-setting schemes, as requested by Parliament; has decided to adapt the nomenclature of the lines affected by such an eventual future off-setting scheme; reiterates, however, that efforts need to be stepped up to reduce travel where possible;

26. Expresses its wish that a mobility management centre, detailing public transport connections from and to the Parliament, be made available in all of Parliament's premises, as well as via the intranet, as from the start of the new mandate of Parliament, encouraging use of public transport as an alternative to car use;

27. Takes note of the suggestion of funding a European Parliament professorship in honour of Professor Bronisław Geremek and of establishing a board, one of the purposes of which could be to grant an annual award; calls on the Bureau to examine this suggestion and its feasibility in collaboration with the Commission, with the aim of allocating the appropriate resources;

28. Takes note of the opinions submitted by the Committees on International Trade, Legal Affairs and Petitions and acknowledges the high level of agreement; stresses that, in the main, the concerns raised have been taken on board through the budgetary amendments and the vote;

Section IV — Court of Justice

29. Recognises the importance of the new urgency procedure to be implemented by the Court, in which national courts are entitled to a reply within a much shorter deadline than was previously the case; therefore approves the draft budget as concerns the 39 new posts in question;

30. Notes that the high rate of increase in the budget is primarily due to the construction project for the Court's new building, which was previously agreed and which will continue to have a high financial impact for years to come; calls on the Court to present an updated report on the works as a whole and its cost implications until 2013;

31. Considers that the development of the Court's normal operating budget, currently at a rate of about +2,5 %, is far more encouraging and that, overall, the Court has made clear efforts to limit its expenditure growth for the 2009 exercise;

32. Decides to fix the general abatement rate at 3,5 %, a level close to that which the Court itself is suggesting, and restores the corresponding appropriations; notes that this should ensure the Court's full operability while still representing a saving on the original proposals;

Section V — Court of Auditors

33. Welcomes the proposed reinforcement of the Court's audit capacity and decides to provide the 20 associated posts in agreement with both the Court and the Council;

34. Considers that the financing of the Court's building extension must be kept at the lowest cost possible for the taxpayer; therefore re-confirms its decision to pay for this directly through the budget, in four years, rather than masking the significantly higher costs that would result from a 25-year lease-purchase arrangement; decides, in consequence, to frontload the maximum amount possible to the 2009 budget and, to this end, has approved an amount of EUR 55 million for this purpose;

35. Decides to boost a limited number of expenditure items relating to the Court's dissemination of reports to the public, a performance audit of the Court itself, better reporting, childcare facilities for staff and also to provide two further posts in the establishment plan in addition to the auditors mentioned above;

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Section VI — European Economic and Social Committee

36. Has taken account of the Committee's concerns as regards appropriations available for staff and, considering the arguments advanced, agrees to adjust the general abatement rate to a level of 4,5 %;

37. Decides to create, in addition to the two new AD5 posts included in the Draft Budget, another two AST posts which had been rejected by the Council;

38. Decides to place a portion of appropriations for travel and meeting expenses into reserve pending the provision by the Committee of a clear plan on how it intends to keep these costs in check;

Section VII — Committee of the Regions

39. Takes note of the fact that the Committee will need to recruit additional 'enlargement-related' staff and agrees to the new posts in the Council's draft budget;

40. In addition to this, can accept, after hearing the Committee, a limited number of three further posts in order to boost its operational capacity in specific departments;

41. Decides to introduce a general abatement rate of 4,5 % after hearing the Committee's arguments; notes that this is very close to the Committee's own requests while still representing a saving;

Section VIII — European Ombudsman

42. Agrees to the Council's draft budget on creating three new AD posts in order to strengthen the Ombudsman in dealing with an increasing number of admissible complaints; in addition to this, after hearing the Ombudsman, can also agree to three temporary AST posts;

Section IX — European Data Protection Supervisor

43. Approves this section of the draft budget;

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44. Instructs its President to forward this resolution, together with the amendments to Sections I, II, IV, V, VI, VII, VIII and IX of the draft general budget, to the Council and the Commission, and also to the other institutions and bodies concerned.

Airport charges *II**

P6_TA(2008)0517

European Parliament legislative resolution of 23 October 2008 on the Council common position for adopting a directive of the European Parliament and of the Council on airport charges (8332/2/2008 — C6-0259/2008 — 2007/0013(COD))

(2010/C 15 E/49)

(Codecision procedure: second reading)

The European Parliament,

— having regard to the Council common position (8332/2/2008 — C6-0259/2008) ⁽¹⁾,

— having regard to its position at first reading ⁽²⁾ on the Commission proposal to Parliament and the Council (COM(2006)0820),

⁽¹⁾ OJ C 254 E, 7.10.2008, p. 18.

⁽²⁾ Texts Adopted, 15.1.2008, P6_TA(2008)0004.

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- having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0375/2008),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and the Commission.

P6_TC2-COD(2007)0013

Position of the European Parliament adopted at second reading on 23 October 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council on airport charges

(As an agreement was reached between Parliament and Council, Parliament's position at second reading corresponds to the final legislative act, Directive 2009/12/EC.)

Stabilisation and Association Agreement between the EC and Bosnia and Herzegovina ***

P6_TA(2008)0518

European Parliament legislative resolution of 23 October 2008 on the proposal for a Council and Commission decision on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part (8225/2008 — COM(2008)0182 — C6-0255/2008 — 2008/0073(AVC))

(2010/C 15 E/50)

(Assent procedure)

The European Parliament,

- having regard to the proposal for a Council and Commission decision (8225/2008 — COM(2008)0182),
 - having regard to the draft Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part (8226/2008),
 - having regard to the request for assent submitted by the Council pursuant to Article 300(3), second subparagraph, in conjunction with Article 300(2), first subparagraph, last sentence and Article 310 of the EC Treaty (C6-0255/2008),
 - having regard to Article 101 of the EAEC Treaty,
 - having regard to Rules 75 and 83(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Foreign Affairs (A6-0378/2008),
1. Gives its assent to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Bosnia and Herzegovina.
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