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## I

(Resolutions, recommendations and opinions)

## RESOLUTIONS

## EUROPEAN PARLIAMENT

**Impact of tourism on coastal regions**

P6\_TA(2008)0597

**European Parliament resolution of 16 December 2008 on the regional development aspects of the impact of tourism on coastal regions (2008/2132(INI))**

(2010/C 45 E/01)

*The European Parliament,*

- having regard to Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund <sup>(1)</sup>,
- having regard to Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) <sup>(2)</sup>,
- having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology <sup>(3)</sup>,
- 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 <sup>(4)</sup>,
- having regard to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) <sup>(5)</sup>,
- 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) <sup>(6)</sup>,
- having regard to its position of 23 October 2008 on the Council common position for adopting a directive of the European Parliament and of the Council on airport charges <sup>(7)</sup>,

<sup>(1)</sup> OJ L 210, 31.7.2006, p. 1.

<sup>(2)</sup> OJ L 210, 31.7.2006, p. 19.

<sup>(3)</sup> OJ L 97, 9.4.2008, p. 1.

<sup>(4)</sup> OJ L 210, 31.7.2006, p. 25.

<sup>(5)</sup> OJ L 164, 25.6.2008, p. 19.

<sup>(6)</sup> OJ L 412, 30.12.2006, p. 1.

<sup>(7)</sup> Texts Adopted, P6\_TA(2008)0517.

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- having regard to the Commission communication of 27 September 2000 'Integrated coastal zone management: a strategy for Europe' (COM(2000)0547),
  - having regard to the Commission communication of 19 October 2007 'Agenda for a sustainable and competitive European tourism' (COM(2007)0621),
  - having regard to the Commission communication of 17 March 2006 'A renewed EU Tourism Policy: Towards a stronger partnership for European tourism' (COM(2006)0134), and to Parliament's resolution thereon of 29 November 2007 <sup>(1)</sup>,
  - having regard to the Commission communication of 10 October 2007 'An Integrated Maritime Policy for the European Union' (COM(2007)0575), and to Parliament's resolution thereon of 20 May 2008 <sup>(2)</sup>,
  - having regard to the Commission communication of 23 January 2008 '20 20 by 2020 — Europe's climate change opportunity' (COM(2008)0030),
  - having regard to Commission Green Paper of 7 June 2006 'Towards a future Maritime Policy for the Union: A European vision for the oceans and seas' (COM(2006)0275),
  - having regard to the Presidency Conclusions of the Brussels European Council of 14 December 2007,
  - having regard to the Joint Tripartite Declaration of 20 May 2008 between Parliament, the Council and the Commission Establishing a 'European Maritime Day', to be celebrated on 20 May each year,
  - 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 Transport and Tourism (A6-0442/2008),
- A. whereas the EU has six coastal macrozones, namely those corresponding to the Atlantic, the Baltic, the Black Sea, the Mediterranean, the North Sea and the outermost regions, each with its particular territorial resources and its specific concept of tourism,
- B. whereas a significant part of the European population lives on the 89 000 km stretch of mainland European coast,
- C. accepting the definition of 'coastal zones' employed in the context of the EU's maritime policy, i.e. zones or areas located on the coast or within 50 km from the coast in a straight line,
- D. whereas coastal regions are extremely important for the EU, since a significant percentage of economic activity is concentrated in them,
- E. having regard to the definition of integrated coastal zone management and the role played by tourism in achieving that objective,
- F. whereas the positive development of coastal regions benefits not only the people residing in coastal areas, but all people living in the EU,

<sup>(1)</sup> OJ C 297 E, 20.11.2008, p. 184.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0213.

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- G. whereas tourism, while typically the main activity in these regions, positively contributing to social and economic development in terms of increasing GDP and employment levels, can also have adverse territorial effects arising from the seasonal nature of activity, employment of unskilled labour, lack of integration between coast and hinterland, lack of economic diversification, or the degradation of the natural and cultural heritage,
- H. whereas there is practically no specific reference to the coastal zones in the various operational programmes for 2007-2013, and as a result there is a lack of comparable and reliable socio-economic and financial data for coastal tourism,
- I. whereas, in the absence of reliable comparative data on coastal tourism, it is possible that this sector's economic strength is being underestimated, leading to undervaluation of the economic value of preserving the marine environment and overvaluation of the role of investment in achieving that goal,
- J. whereas, because of a lack of information on the EU funds invested in the coastal zones it is difficult to make a quantitative assessment of the real impact of the Structural Funds on coastal tourism,
- K. whereas tourism is located at the intersection of various EU policies which substantially affect its capacity to contribute to social and territorial cohesion,
- L. whereas, from a qualitative point of view, the Structural Funds can have a positive impact on the development of coastal regions, revitalising the local economies, stimulating private investment and promoting sustainable tourism,
- M. whereas there is a more visible impact in locations such as small islands in the outermost regions or coastal zones where coastal tourism is the main economic activity,
- N. whereas coastal areas are strongly influenced by their geographical location, and require a structured strategy taking account of their specific characteristics and of the principle of subsidiarity and the need for a decision-making process that applies consistency between sectors,
- O. whereas, in addition, coastal regions are often also outlying regions such as small islands, outermost regions or tourism-dependent coastal areas whose accessibility is limited outside the high season, where territorial cohesion requires the creation of better infrastructures and more regular transport links between coast and interior, as well as the encouragement, via investment-generating strategies for territorial marketing and integrated economic development, of continued economic activity outside the tourist season,
- P. whereas the coastal zones, despite having similar problems, do not possess specific instruments which would enable a structured approach and better communication among the main actors, who frequently work independently and in isolation from each other,
- Q. whereas integrated solutions to real problems can be found and implemented at local and regional level by the public authorities working in cooperation with the private sector and keeping in view both environmental and community interests,

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- R. whereas the creation of policy instruments will help contribute to more integrated and sustainable development strategies, improving economic competitiveness by preserving natural and cultural resources, meeting social needs and promoting models of ethical tourism,
- S. whereas this could help create better jobs in the coastal zones, reducing the seasonal element and combining different forms of tourism and other maritime or coastal activities, thus adjusting the supply to the demanding expectations and requirements of modern-day tourists and permitting the generation of skilled employment,
- T. whereas the European territorial cooperation objective laid down in Article 6 of the Regulation (EC) No 1080/2006 can make an effective contribution to the above priorities, via the funding of cooperation projects and the development of partnership networks between sectoral players and the coastal areas, stressing in this context the importance of utilising the European grouping of territorial cooperation provided for in Regulation (EC) No 1082/2006 as an instrument for creating ongoing cooperation in the field of the sustainable development of coastal regions, with the participation of local and social partners;
1. Stresses that tourism is a key factor for the social and economic development of the EU's coastal regions and is closely linked to the objectives of the Lisbon strategy; also emphasises that the objectives of the Gothenburg Strategy should be more rigorously taken into account for coastal tourism activities;
  2. Encourages coastal Member States to design specific strategies and integrated plans at national and regional level in order to counteract the seasonal nature of tourism in coastal regions and ensure more stable employment and a better quality of life for local communities; emphasises, in this context, the importance of extending the traditional seasonal business to a year-round activity through product diversification and alternative forms of tourism (e.g. business, cultural, medical, sport, agricultural and sea-related tourism); notes that diversification of products and services will help create growth and employment and reduce environmental, economic and social effects;
  3. Stresses the need to safeguard workers' rights in the sector, promoting quality jobs and the acquisition of skills, this entailing, inter alia, suitable training, more extensive use of long-term contracts, equitable and decent wages and better working conditions;
  4. Calls for an integrated approach to coastal tourism in the context of the EU's cohesion, maritime, fisheries, environmental, transport, energy, social and health policies, in order to create synergies and avoid inconsistent actions; recommends that the Commission takes into account such an integrated approach to the sustainable growth of coastal tourism, especially in connection with the EU's maritime policy, as a strategic objective of its work programme for 2010-2015, and also in the context of the mid-term review of the financial framework for 2007-2013;
  5. Calls on the Member States to ensure the full participation of the regional and local authorities responsible for tourism and regional development in coastal zones as well as of economic, social and environmental partners in all permanent structures set up under these policies, and in the cross-border cooperation programmes involving coastal regions;
  6. Highlights the fundamental link between a well-functioning infrastructure and a successful tourist region, and thus calls on the competent authorities to draw up plans for optimising local infrastructure, for the benefit of both tourists and local residents; in this light, strongly recommends that coastal Member States take all measures necessary to ensure that new projects improving infrastructure, including oil plants and other facilities, are always built using the latest available technologies, in order to ensure the reduction of energy use and carbon emissions and improve energy efficiency through the use of renewable energy sources;

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7. Urges the Commission, the Member States and the regions to promote sustainable mobility chains involving local public transport, cycle tracks and footpaths, in particular along cross-border stretches of coastline, and to support the exchange of good practices;
8. Recommends that the Commission adopt a holistic approach to coastal tourism in the context of both territorial cohesion and its strategy for an integrated maritime policy, in particular for the islands, the island Member States, the outermost regions and the other coastal zones, notably in view of the high dependence of these areas on tourism;
9. Strongly encourages the Commission and the Member States to include coastal tourism in the list of priorities within the strategic guidelines for the next programming period of the Structural Funds as well as among the policies of the EU's coastal regions and to define an innovative strategy able to integrate the coastal tourism offer;
10. Welcomes therefore the participation of coastal regions in Interreg IV B and C programmes and projects covering both transnational and interregional cooperation in the field of tourism and invites them to make effective use of EU initiatives and instruments for coastal regions (such as the Mediterranean and Baltic Sea Strategies and the Black Sea Synergy); strongly recommends that the Commission place greater emphasis on coastal regions in the new Interreg programmes for the next programming period;
11. Takes note of the Committee of the Regions' view concerning the creation of a European coastal fund, and calls on the Commission, in the context of the next financial framework, to examine ways of better coordinating all future financial instruments that cover action in coastal regions;
12. Recommends building up a knowledge pillar as part of the integrated development of the coastal zones, by creating a European sectoral network under the umbrella of the European Institute of Innovation and Technology provided for in Regulation (EC) No 294/2008 and the Seventh Framework Programme provided for in Decision No 1982/2006/EC;
13. Recommends that the coastal Member States apply the integrated approach at programme level when selecting and executing projects related to the coasts, adopting an intersectoral method and prioritising the creation of public-private partnerships, in order to reduce pressure on the local authorities concerned;
14. Welcomes the priorities identified by the Commission for coastal and maritime tourism in the above-mentioned Agenda for a Sustainable and Competitive European Tourism; suggests that the recently-created European Tourist Destinations Portal could include specific information on coastal destinations and networks, especially those which are less well-known and less publicised, with a view to their promotion beyond the EU's borders, including at regional and local level;
15. Calls on the Commission, in this connection, to recognise coastal and water tourism as an area of excellence for 2010 in the context of its pilot project European Destinations of Excellence;
16. Laments the fact that the current lack of transparency as regards EU expenditure in the coastal zones makes it impossible to quantify the level of investment or to analyse the impact of the supported initiatives in those regions; in this context welcomes the abovementioned Green Paper on future maritime policy's provision to create a database for maritime regions that will include information on the beneficiaries of all Community funds (including the Structural Funds) and calls on the Commission to accomplish this important task without delay; stresses the importance of such an initiative for ensuring transparency in this field; calls on the Commission to activate suitable instruments for making these data available for analytic and statistical purposes and calls on the Member States to fulfil their obligations concerning the publication of the final beneficiaries, thus providing a comprehensive picture of existing projects;

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17. Calls on the Commission, the Member States and the regions to draw up jointly an exhaustive catalogue, to be made available on the Internet, of projects funded in the coastal zones, thus enabling the regions to learn from others' experience and permitting academia, the coastal communities and other interested parties to identify, publicise and maximise the transfer of best practices to the local communities; in this light recommends the setting up of a forum where interested parties can contact each other and share good practices and of a working group of representatives of Members States to develop action plans on coastal tourism and foster the exchange of experiences at institutional level;

18. Invites the Commission also to use this Internet catalogue to make the public aware of the benefits brought by the EU to the coastal regions, thus contributing to a more positive view of EU funding and enhancing the EU's image;

19. Calls on the Commission to ensure that the ongoing compilation by Eurostat of a socio-economic database for the EU's coastal regions includes data on tourism that is reliable, uniform and up-to-date, since this is essential in order to facilitate decision-making in the public sector and enable comparison between regions and sectors; recommends that the coastal Member States, as a matter of urgency, act to implement the Tourism Satellite Account in their territory;

20. Stresses that there is a close link between the environment and coastal tourism; and that policies to develop tourism should include practical measures in line with a general policy of environmental protection and management; welcomes, therefore, the fact that sustainable development is enshrined in Article 17 of Regulation (EC) No 1083/2006 (on Structural Funds 2007-2013) as one of the key principles applying to the implementation of all structural interventions whose application has to be duly verified through appropriate monitoring activities; strongly recommends that a similar provision be introduced in the Regulations for the next programming period; emphasises the important contribution this would make to fostering eco-tourism;

21. Points out that coastal regions are particularly affected by the impact of climate change and the attendant rise in sea level and sand erosion, plus the increasing incidence and strength of storms; insists therefore that coastal regions devise climate change risk and prevention plans;

22. Points to the impact of climate change on coastal tourism; therefore calls on the Commission on the one hand consistently to integrate the EU targets for reducing CO<sub>2</sub> emissions into transport and tourism policy and, on the other hand, to promote measures to protect sustainable coastal tourism from the impact of climate change;

23. Emphasises, in this context, the importance of assessing the potential of tourism to contribute to environmental protection and conservation; notes that tourism might offer an easy way to raise awareness of environmental values through the concerted action of national and regional authorities on the one hand and tourism operators and hotels and restaurants managers on the other; considers therefore, that coastal regions should be targeted by such efforts, due to their pre-eminently touristic profile;

24. Stresses the need, in developing tourism, of always ensuring the protection of historical features and archaeological treasures and the preservation of traditions and of cultural heritage in general, fostering the active involvement of local communities;

25. Calls for incentives to be provided for sustainable development, so as to safeguard the cultural and natural heritage and the social fabric in coastal regions;

26. Calls on the Commission to ensure that active execution in line with the Marine Strategy Framework Directive is a condition for receiving EU funding for coastal projects having an impact on the sea;



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27. Calls on the Commission to use all suitable evaluation instruments to ensure the implementation of this principle in the coastal zones during the present programming period, as well as the sharing of responsibilities between the different decision-making levels;

28. Emphasises that pressure on coastal zones due to excessive physical infrastructure interventions is to the detriment of coastal tourism development and attractiveness, whereas those aspects could be fostered through high quality tourism services, essential for coastal regional competitiveness and the promotion of quality jobs and qualifications; invites, therefore, coastal regions instead to encourage alternative investments such as investments in ITC-based services, new potentials of local traditional products and high-quality training for workers of the tourism sector; calls, also, for the design of training programmes to create a pool of skilled workers, to deal with the increased complexity and variety of the tourism sector;

29. Calls on the Member States to devise appropriate urban development and planning policies that are compatible with the coastal landscape;

30. Stresses that high quality represents the basic comparative advantage of the EU tourism product; calls on the Member States and the regional and local authorities to highlight and strengthen the quality of tourism services in terms of the provision of security, ample and modern infrastructure, the corporate social responsibility of the enterprises involved, and environmentally friendly economic activities;

31. Calls on the Commission to ensure that its policy for maritime clusters includes productive services and sectors of relevance to coastal tourism, thus enabling fruitful interaction among those who use the sea as a resource to increase their competitiveness, sustainability and contribution to coastal economic development; considers, furthermore, that medical, welfare, educational, technological and sporting facilities should be included as coastal services under the maritime clusters, as key elements for the development of the coastal zones;

32. Highlights the importance of accessibility for the development of coastal regions; calls, therefore, on the Commission and national and regional coastal authorities to develop ways to ensure optimal connectivity via land, air and waterway transportation; reiterates its call on the same actors, in view of the high incidence of marine pollution in numerous regions and port cities, to boost incentives for the supply of vessels in port from the land network; invites Member States to analyse the possibility of adopting measures such as reducing airport charges, always in accordance with the procedure laid down in its abovementioned position of 23 October 2008, in order to increase the attractiveness of and foster the competitiveness of coastal areas; for the same purpose, stresses the necessity of enhancing the respect of airport and aviation safety standards, including removal of fuel depots near airports, where necessary;

33. Calls on the Member States and regional authorities to promote the upgrading of ports and airports in coastal and island regions in order to meet the needs of tourism, taking due account of the existing environmental possibilities and respect for aesthetic considerations and the natural surroundings;

34. Stresses that territorial cohesion is a horizontal concept covering the EU as a whole, which can enhance the links between coast and hinterland by virtue of the existing complementarities of and mutual influence between coastal and inner areas (e.g. connection of coastal activities to rural and urban tourism, improvement of out-of-season accessibility for tourism, increasing the profile of local products while encouraging their diversification); notes that the abovementioned Green Paper on future maritime policy makes special reference to island regions, acknowledging that they face particular developmental challenges due to their permanent natural handicaps; emphasises that similar problems are faced by coastal regions in general and calls on the Commission to take account of the need to link coastal tourism to the integrated management of coastal zones and spatial planning for the seas in the future implementation of territorial cohesion;

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35. Urges the coastal regional and local authorities, similarly, to encourage integrated territorial marketing schemes alongside their partners in the context of sea-and-land based neighbourhood relations and to promote equity in tourism development and travel with a view to boosting competitiveness in the tourist sector without prejudice to overall competitiveness;

36. Encourages the coastal regions to take part in projects for interregional cooperation, e.g. under Theme IV of the initiative Regions for Economic Change, with the objective of creating new thematic coastal tourism networks and building on those already in place, as well as ensuring the exchange of know-how and best practice;

37. Recommends that the public authorities concerned at national, regional and local level act to promote strategic projects for coastal tourism under their cooperation programmes, providing technical assistance for the preparation of projects, making available suitable levels of funding for such actions and prioritising the use of Structural Funds for developing sustainable, environmentally-friendly tourism in coastal regions, for both Convergence and Competitiveness and Employment areas; in this connection, believes that special attention should be paid to operations aimed at developing communications and IT;

38. Calls on the Commission to organise at least one special event within the next year, preferably on 20 May, European Maritime Day, focusing on coastal tourism, with a view to facilitating communication and fostering contacts between partners and sharing best practice, e.g. in the implementation of the EU's integrated quality management model; in this context encourages all actors to present their Community-funded projects directly or indirectly relating to coastal tourism;

39. Considers that fostering nautical tourism, also through the promotion of sector-related economical activities can help citizens of the Union to develop more sustainable habits and higher ecological awareness; invites, therefore, Member States to encourage investments for this purpose in their coastal areas;

40. Calls on the Commission, in addition, to draw up a practical guide to EU financing in the area of coastal tourism, so as to orient interested parties in the phase of seeking funds;

41. Recognises the major potential contribution of increased cruise tourism to the development of coastal communities, provided a balance is struck between risks and responsibilities and between fixed costs for on-shore investments and flexibility for cruise operators, with environmental concerns being correctly met at the same time;

42. Calls on the Commission to support coastal communities in acquiring best practices and in learning to maximise the return to the local communities of the value added generated by cruise tourism in particular and coastal tourism in general;

43. Calls on the coastal regions to set up and support regional or local development agencies, which would help network professionals, institutions, experts and administrations within the same area and between Member States and would offer consultation and information to potential beneficiaries from both public and private sectors;

44. Recommends that the coastal Member States take account of sustainability in the context of post-financing cooperation projects, not only in financial terms but also in relation to the continuity of cooperation between partners and interconnection with the relevant local services;

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45. Recommends that the coastal Member States ensure high visibility for the projects selected and simplify the procedures for access to funding, with a view to attracting private financing for coastal tourism and facilitating the creation of partnerships between public authorities and private-sector players, especially SMEs; recommends the promotion of the recreational benefits of marine and coastal tourism in the context of ensuring healthy flora and fauna (fostering ecotourism, fish tourism, whale watching, etc); believes that these objectives could be embodied in the European Maritime Day, 20 May;

46. Calls on environmental groups, economic sectors linked to the sea, cultural organisations, the scientific community, civic entities and local residents to participate in all stages of projects, including their monitoring, with a view to their long-term sustainability;

47. Calls on the Commission, finally, to undertake a regular assessment of the extent to which Community funding in the coastal zones is impacting on their regional development, with a view to disseminating best practice and supporting partnership networks linking the different players by means of a monitoring centre for sustainable coastal tourism;

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

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## Media literacy in a digital world

P6\_TA(2008)0598

### European Parliament resolution of 16 December 2008 on media literacy in a digital world (2008/2129(INI))

(2010/C 45 E/02)

*The European Parliament,*

- having regard to the 2005 Unesco Convention on the Protection and Promotion of the Diversity of Cultural Expressions,
- having regard to Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities <sup>(1)</sup>, and in particular to Recital 37 of Directive 2007/65/EC and Article 26 of Directive 89/552/EEC,
- having regard to Decision No 854/2005/EC of the European Parliament and of the Council of 11 May 2005 establishing a multiannual Community Programme on promoting safer use of the Internet and new online technologies <sup>(2)</sup>,
- having regard to Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007) <sup>(3)</sup>,
- having regard to the Recommendation of the European Parliament and of the Council of 20 December 2006 on the protection of minors and human dignity and on the right of reply in relation to the competitiveness of the European audiovisual and on-line information services industry (2006/952/EC) <sup>(4)</sup>,

<sup>(1)</sup> OJ L 332, 18.12.2007, p. 27.

<sup>(2)</sup> OJ L 149, 11.6.2005, p. 1.

<sup>(3)</sup> OJ L 327, 24.11.2006, p. 12.

<sup>(4)</sup> OJ L 378, 27.12.2006, p. 72.

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- having regard to the Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (2006/962/EC) <sup>(1)</sup>,
  - having regard to the Commission Communication of 20 December 2007 entitled 'A European approach to media literacy in the digital environment' (COM(2007)0833),
  - having regard to the Commission Staff Working Document entitled 'Media pluralism in the Member States of the European Union' (SEC(2007)0032),
  - having regard to the Commission Communication of 1 June 2005 entitled 'i2010 — A European Information Society for growth and employment' (COM(2005)0229),
  - having regard to its resolution of 20 November 2002 on media concentration <sup>(2)</sup>,
  - having regard to its resolution of 6 September 2005 on the application of Articles 4 and 5 of Directive 89/552/EEC ('Television without Frontiers') as amended by Directive 97/36/EC, for the period 2001-2002 <sup>(3)</sup>,
  - having regard to its resolution of 27 April 2006 on the transition from analogue to digital broadcasting: an opportunity for European audiovisual policy and cultural diversity? <sup>(4)</sup>,
  - having regard to the Council Conclusions of 22 May 2008 on intercultural competences <sup>(5)</sup> and on a European approach to media literacy in the digital environment <sup>(6)</sup>,
  - having regard to the 1982 Unesco Grünwald Declaration on Media Education,
  - having regard to the 2007 Unesco Paris Agenda — twelve recommendations for media education,
  - having regard to Council of Europe Recommendation Rec(2006)12 of the Committee of Ministers to member states on empowering children in the new information and communications environment,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education (A6-0461/2008),
- A. whereas the media make themselves felt in politics and the day-to-day life of society; whereas a high degree of media concentration can endanger media pluralism; and whereas media literacy is therefore central to political culture and active participation by Union citizens,
- B. whereas all types of media, audiovisual and printed, traditional and digital, are blending together and the different forms of media are converging, both technically and in terms of content; whereas new mass media are penetrating into all areas of life thanks to innovative technologies; whereas these new media call for users to take a more active role and whereas social communities, weblogs and video games are also forms of media,
- C. whereas, as far as young media users are concerned, the Internet is the first and principal source of information; whereas their Internet skills are geared to their specific needs, without being systematically ordered; whereas adults, by contrast, keep themselves informed primarily with the aid of radio, television, newspapers and magazines; and whereas, in the current media environment, media literacy therefore helps to meet the challenges posed by new media — particularly the scope they offer for interaction and creative participation — as well as providing the knowledge needed for traditional media, which are still a main source of public information,

<sup>(1)</sup> OJ L 394, 30.12.2006, p. 10.

<sup>(2)</sup> OJ C 25 E, 29.1.2004, p. 205.

<sup>(3)</sup> OJ C 193 E, 17.8.2006, p. 117.

<sup>(4)</sup> OJ C 296 E, 6.12.2006, p. 120.

<sup>(5)</sup> OJ C 141, 7.6.2008, p. 14.

<sup>(6)</sup> OJ C 140, 6.6.2008, p. 8.

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- D. whereas new communication technologies can swamp the uninformed user in a landslide of information that is undifferentiated in terms of its relevance, with excessive information potentially posing as big a problem as a lack of information,
- E. whereas proper training in IT and media use, respectful of the rights and freedoms of others, significantly enhances employability from an individual point of view and, from the point of view of the economy as a whole, helps to achieve the Lisbon goals,
- F. whereas broad access to communication technologies affords everyone the possibility of transmitting information globally, meaning that every member of the public is a potential journalist, and making media literacy a necessity not only for understanding information but also for generating and distributing media content; and whereas computer skills alone consequently do not lead automatically to greater media literacy,
- G. whereas, when it comes to the development of telecommunication networks and progress towards disseminating information and communication technology (ICT), there are significant differences between the Member States, as well as between regions, particularly in remote and rural areas, posing the threat that the digital divide in the EU could widen still further,
- H. whereas schools have an essential role to play in moulding people capable of communicating and of exercising judgement; whereas the position regarding media education varies widely from one Member State and one region to the next, as does the degree to which ICT is integrated and used within education; and whereas media education can be provided primarily by teachers who themselves are media literate and have been given the necessary training,
- I. whereas media education is essential to achieving a high level of media literacy, which is an important part of political education that helps people to strengthen their behaviour as active citizens and their awareness of both rights and duties; whereas, furthermore, well-informed, politically mature citizens form the basis of a pluralist society; and whereas, by producing their own content and media products, users acquire abilities affording them a deeper insight into the principles and values of professionally produced media content,
- J. whereas media education work aimed at older people is not so well established as the activities aimed at young people and whereas older people often feel apprehensive about, and inhibited by, new media,
- K. whereas threats to the security of personal data are becoming increasingly insidious and manifold, thereby constituting a high risk for uninformed users,
- L. whereas media literacy is an essential key qualification in the information and communication society,
- M. whereas the media provide opportunities for global communication and openness to the world, whereas they are cornerstones of democratic societies and whereas they impart knowledge as well as providing information, and whereas new digital media provide positive opportunities for participation and creativity, thereby enhancing citizens' involvement in political processes,
- N. whereas there are currently insufficient data available to make precise statements about the level of media literacy in the European Union,
- O. whereas the decisive importance of media literacy has also been highlighted by Unesco in, for example, the Grünwald Declaration on Media Education (1982) and the Paris Agenda — twelve recommendations for media education (2007),

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### **Principles**

1. Welcomes the abovementioned Commission Communication on media literacy in the digital environment, but believes that there is room for improvement to the extent that the European approach intended to foster media literacy needs to be more clear cut, especially as regards the inclusion of traditional media and recognition of the importance of media education;
2. Welcomes the Council conclusions of 22 May 2008 on intercultural competences; looks to the Member States to do their utmost to promote media literacy and proposes that the Member States' contact committee, as provided for in Directive 89/552/EEC, be strengthened through the recruitment of education experts;
3. Urges the Commission to adopt a recommendation, and develop an action plan, on media literacy; urges the Commission to organise a meeting of the contact committee on Audio-Visual Media Services in 2009 with a view to facilitating information exchanges and effective cooperation on a regular basis;
4. Requests the authorities responsible for regulating audiovisual and electronic communications to cooperate at the various levels for the improvement of media literacy; recognises the special need to develop at national level both codes of conduct and common regulatory initiatives; highlights the need for all stakeholders to be involved in promoting the systematic study and regular analysis of the various facets and dimensions of media literacy;
5. Recommends that the Commission also use the Media Literacy Expert Group to discuss media education matters and that the Group meet more regularly and consult, on a regular basis, the representatives of all Member States;
6. Notes that, in addition to policy-makers, journalists, radio and television broadcasters and media companies, it is mainly small local entities such as libraries, adult education centres, citizens' cultural and media centres, further education and training establishments and citizens' media (e.g. community media) that can make an active contribution to promoting media literacy;
7. Calls on the Commission, having regard to Article 26 of Directive 89/552/EEC, to devise media literacy indicators with a view to fostering media literacy in the EU in the long term;
8. Notes that media literacy denotes the ability to use individual media unaided, to understand, and bring critical assessment to bear on, the various aspects of media as such and media content, and to communicate — irrespective of the context — and create and disseminate media content; notes in addition that, given the many sources available, what is most important is the ability to separate out information from the new media's flood of data and images and to categorise that information;
9. Stresses that media literacy is a basic element in consumer information policy, awareness of and familiarity with matters relating to intellectual rights, the mobilisation and democratic participation of citizens and the promotion of intercultural dialogue;
10. Urges the Commission to expand its policy to promote media literacy, working together with all EU bodies and with local and regional authorities, and to intensify cooperation with Unesco and the Council of Europe;

***Aims and target groups***

11. Maintains that media education activities have to encompass all citizens — children, young people, adults, older people, and people with disabilities;
12. Points out that acquiring media literacy begins in the home with learning how to select from the media services available — stressing in this regard the importance of media education for parents, who play a decisive role in the development of children's media-use habits — and continues at school and during lifelong learning, and is strengthened by the efforts of national, governmental and regulatory authorities and the work of media professionals and institutions;
13. Notes that the purpose of media literacy is to enable people to use media and their content in skilled and creative ways, critically analyse media products, understand how the media industry works, and produce media content by their own efforts;
14. Recommends that media education should shed light on copyright aspects of media use and on the importance of respecting intellectual property rights, in particular regarding the Internet, as well as on data and privacy security and the right of informational self-determination; stresses the need for new media-literate users to be aware of the potential risks concerning IT security and the security of personal data, and of the risks relating to cyber-violence;
15. Points out that advertising is an important part of the services provided by the media today; stresses that media literacy helps to provide criteria for assessing the tools and practices used in advertising;

***Giving access to information and communication technologies***

16. Calls on European policy-makers to narrow the digital divide between Member States and between town and country by developing the information and communication infrastructure and, above all, setting up broadband in areas not fully equipped;
17. Notes that providing access to broadband Internet is also important for services of general interest and should be characterised by variety, a high level of quality, and affordability, and maintains that every citizen should have the possibility of using an inexpensive broadband connection;

***Media education in schools and as a component of teacher training***

18. Maintains that media education should be an element of formal education to which all children should have access and which should form part and parcel of the curriculum at every stage of schooling;
19. Calls for media literacy to be made the ninth key competence in the European reference framework for lifelong learning set out in Recommendation 2006/962/EC;
20. Recommends that media education should, as far as possible, be geared to practical work and linked to economic, political, literary, social, artistic, and IT-related subjects, and suggests that the way forward lies in the creation of a specific subject — 'Media Education' — and in an interdisciplinary approach combined with out-of-school projects;
21. Recommends that educational establishments encourage the development of media products (printed page, audio/video new media) in a manner involving both pupils and teachers, as a way of providing practical training in media literacy;



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22. Calls on the Commission, when, as announced, it lays down the media literacy indicators, to take into account both the quality of school tuition and teacher training in this field;

23. Notes that, in addition to educational and education-policy considerations, technical equipment and access to new technologies are also of vital importance, and maintains that school facilities need to be substantially improved so as to enable all schoolchildren to have access to computers, the Internet, and the necessary instruction;

24. Maintains that media education is a matter of particular importance in special schools, given that, when people have disabilities, the media can often do a great deal to overcome obstacles to communication;

25. Recommends that compulsory media education modules be incorporated into teacher training for all school levels, so as to enable the subject to be taught intensively; calls on the relevant national authorities to familiarise teachers of all subjects and at every type of school with the use of audiovisual teaching aids and with the problems associated with media education;

26. Emphasises the need for regular exchange of information, good practices and, in the field of education, pedagogical methods between Member States;

27. Calls on the Commission to devote a specific section of the successor to the MEDIA 2007 programme to promoting media literacy, as the current programme contributes little to the promotion of media literacy; supports the Commission's proposal to develop a new programme called 'Media Mundus' to support international cooperation in the audiovisual sector; calls for media literacy to feature more prominently in other EU support programmes, especially Lifelong Learning, eTwinning, Safer Internet and the European Social Fund;

### ***Media education for older people***

28. Maintains that media work with older people has to be done at the places where they are to be found, such as societies, old people's and nursing homes, assisted living facilities, recreational and enthusiasts' clubs, action committees, or senior citizens' groups;

29. Notes that digital networks enable older people in particular to share in everyday life by communicating and to remain independent for as long as possible;

30. Points out that the different kinds of environment in which older people live and their varied spheres of experience, as well as the way they use the media themselves, must be taken into account in media education aimed at them;

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31. Instructs its President to forward this resolution to the Council, the Commission, the European Economic and Social Committee and the Committee of the Regions, and the governments and parliaments of the Member States.

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## Capital requirements (implementation plan)

P6\_TA(2008)0607

### European Parliament resolution of 16 December 2008 on the draft Commission directive amending certain annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management

(2010/C 45 E/03)

*The European Parliament,*

- having regard to Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) <sup>(1)</sup>, in particular Article 150(1) thereof,
  - having regard to the draft Commission directive amending certain annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management,
  - having regard to the Commission proposal of 1 October 2008 for a Directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management (COM(2008)0602) (proposal for a review of the CRD),
  - having regard to the Commission proposal of 12 November 2008 for a Regulation of the European Parliament and of the Council on Credit Rating Agencies (COM(2008)0704) (proposal for a CRA Regulation),
  - having regard to Article 5a(3)(b) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>,
  - having regard to Rule 81(2) and (4)(b) of its Rules of Procedure,
- A. whereas the Commission has put forward its proposal for a review of the CRD,
- B. whereas the Commission has also put forward a draft directive amending certain annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management, which includes provision concerning disclosure by External Credit Assessment Institutions (ECAIs),
- C. whereas the Commission subsequently put forward its proposal for a CRA Regulation,
- D. whereas disclosure and transparency obligations on ECAIs and Credit Rating Agencies should be dealt with coherently and consistently,
- E. whereas the disclosure obligations relating to ECAIs proposed by the Commission go beyond a technical adjustment and therefore require appropriate consideration by Parliament and should be dealt with in accordance with the codecision procedure,

<sup>(1)</sup> OJ L 177, 30.6.2006, p. 1.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23.

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- F. whereas such coherence and consistency and Parliament's appropriate consideration require that the provision concerning disclosure obligations relating to ECAIs be dealt with, in accordance with the codecision procedure, in the framework of either the proposal for a review of the CRD or the proposal for a CRA Regulation,
- G. whereas it supports the remaining technical amendments,
1. Opposes adoption of the draft Commission directive amending certain annexes to Directive 2006/48/EC of the European Parliament and of the Council as regards technical provisions concerning risk management;
  2. Considers that the draft Commission directive exceeds the implementing powers provided for in Directive 2006/48/EC;
  3. Calls on the Commission to withdraw the draft measure and submit a new one to the committee;
  4. Proposes amending the draft directive as follows:

TEXT PROPOSED BY THE COMMISSION

MODIFICATION

**Modification 1**

**Draft directive — amending act**

**Article 1 — point 3**

*Directive 2006/48/EC*

*Annex VI — Part 2 — point 7*

(3) *In Annex VI, Part 2, point 7 is replaced by the following:* **deleted**

*7. Competent authorities shall take the necessary measures to assure that the principles of the methodology employed by the ECAI for the formulation of its credit assessments are publicly available as to allow all potential users to decide whether they are derived in a reasonable way. Competent authorities shall furthermore take the necessary measures to ensure that, with regard to credit assessments relating to securitisation positions, the ECAI is committed to produce, on an ongoing basis, summary information on the structure of the transaction, the performance of pool assets and how this affects its credit assessment. This summary information shall be made available to all credit institutions using the credit assessments for the purpose of Article 96.*

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

## Misleading directory companies

P6\_TA(2008)0608

**European Parliament resolution of 16 December 2008 on misleading directory companies (Petitions 0045/2006, 1476/2006, 0079/2003, 0819/2003, 1010/2005, 0052/2007, 0306/2007, 0444/2007, 0562/2007 and others) (2008/2126(INI))**

(2010/C 45 E/04)

*The European Parliament,*

- having regard to Petitions 0045/2006, 1476/2006, 0079/2003, 0819/2003, 1010/2005, 0052/2007, 0306/2007, 0444/2007, 0562/2007 and others,
  - having regard to previous deliberations of the Committee on Petitions on Petition 0045/2006 and others,
  - having regard to Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (codified version) <sup>(1)</sup>,
  - having regard to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (the 'Unfair Commercial Practices Directive') <sup>(2)</sup>,
  - having regard to Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) <sup>(3)</sup>,
  - having regard to Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests <sup>(4)</sup>,
  - having regard to the study entitled 'Misleading practices of "directory companies" in the context of current and future internal market legislation aimed at the protection of consumers and SMEs' (IP/A/IMCO/FWC/2006-058/LOT4/C1/SC6), commissioned by its Committee on the Internal Market and Consumer Protection,
  - having regard to Rule 192(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions and the opinion of the Committee on the Internal Market and Consumer Protection (A6-0446/2008),
- A. whereas Parliament has received more than 400 petitions from small businesses (reflecting only a fraction of their number) who claim to have fallen victim to misleading advertising by business-directory companies and to have suffered, in consequence, psychological stress, feelings of guilt, embarrassment, frustration and financial loss,

<sup>(1)</sup> OJ L 376, 27.12.2006, p. 21.

<sup>(2)</sup> OJ L 149, 11.6.2005, p. 22.

<sup>(3)</sup> OJ L 364, 9.12.2004, p. 1.

<sup>(4)</sup> OJ L 166, 11.6.1998, p. 51.

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- B. whereas these complaints reflect a widespread and concerted pattern of misleading business practices on the part of certain business-directory companies affecting thousands of businesses that are organised across frontiers and thus involve activity in two or more Member States within the European Union and beyond, with a significant financial impact on such businesses, and whereas there is no administrative mechanism or legal instrument enabling the national law-enforcement agencies to work together across borders efficiently and effectively,
- C. whereas the misleading character of these practices becomes more obvious when they are of an electronic nature and are spread using the Internet (see Petition No 0079/2003),
- D. whereas the business practices complained of typically consist of an approach made, usually by mail, by a business-directory company to businesses inviting them to complete or update their business name and contact details and giving them the false impression that they will be listed in a business directory free of charge; whereas signatories later discover that they have, in fact, unintentionally signed up to a contract, normally binding them for a minimum of three years, to be listed in a business directory at a yearly charge of some EUR 1 000,
- E. whereas the forms used in such practices are usually ambiguous and difficult to understand, inducing the erroneous idea of a free listing in a business directory but in fact entrapping businesses into unwanted contracts for advertising in business directories,
- F. whereas neither specific EU legislation nor national legislation exists in Member States concerning directory companies in business-to-business relationships, and whereas Member States have a discretion to introduce more comprehensive and far-reaching legislation,
- G. whereas Directive 2006/114/EC also applies to business-to-business transactions and defines 'misleading advertising' as 'any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor'; whereas, however, different interpretations of what is 'misleading' seem to be a major practical impediment in combating such practices of directory companies in business-to-business relationships,
- H. whereas Directive 2005/29/EC prohibits the practice of 'including in marketing material an invoice or similar document seeking payment which gives the consumer the impression that he has already ordered the marketed product when he has not'; whereas, however, that Directive does not apply to business-to-business misleading practices and therefore, in its current form, cannot be relied upon to help the petitioners; whereas, however, that Directive does not preclude a system of national rules on unfair commercial practices that is equally applicable under all circumstances to consumers and enterprises,
- I. whereas Directive 2005/29/EC does not preclude Member States from extending its application also to businesses through national law; whereas, however, this leads to differing levels of protection for businesses which are victims of misleading practices by business-directory companies in different Member States,
- J. whereas Regulation (EC) No 2006/2004 defines 'intra-Community infringement' as 'any act or omission contrary to the laws that protect consumers' interests ... that harms, or is likely to harm, the collective interests of consumers residing in a Member State or Member States other than the Member State where the act or omission originated or took place; or where the responsible seller or supplier is established; or where evidence or assets pertaining to the act or omission are to be found'; whereas, however, that Directive does not apply to business-to-business misleading practices and therefore, in its current form, cannot be relied upon either to help the petitioners,

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- K. whereas most petitioners name the business directory known as 'European City Guide' (the activities of which directory have been the subject of legal and administrative action), but other business-directory companies such as 'Construct Data Verlag', 'Deutscher Adressdienst GmbH' and 'NovaChannel' are also mentioned; whereas, however, other business-directory companies engage in legitimate business practices,
- L. whereas the targets of these misleading business practices are, in the main, small businesses but also include professionals and even non-profit making entities such as non-governmental organisations, charities, schools and libraries and local social clubs such as band clubs,
- M. whereas the business-directory companies are often established in a Member State other than the victim's, making it difficult for victims to turn to national authorities for protection due to the existence of different interpretations in Member States of what is considered misleading; whereas victims also often find no redress from national legislative frameworks and consumer protection authorities because they are told that the law is intended to protect consumers and not businesses; whereas, being small businesses, most victims often lack the resources to pursue an effective remedy through litigation, and whereas self-regulatory mechanisms for directories are of little relevance as they are disregarded by those that engage in misleading advertising,
- N. whereas victims of these practices are rigorously pursued to pay up by the business-directory companies themselves or even by debt-collection agencies engaged by them; whereas victims complain that they feel distressed and threatened by these approaches and many of them often end up paying unwillingly in order to avoid further harassment,
- O. whereas victims who refuse to pay have — with a few exceptions — seldom been pursued in court,
- P. whereas a number of Member States have adopted initiatives, notably of an awareness-raising nature, among potentially affected companies and whereas this includes information-sharing, advice, alerting state enforcement authorities and in some cases maintaining a complaints register in order to tackle this problem,
- Q. whereas Austria has since 2000 changed its national Unfair Commercial Practices Law, and whereas Section 28a thereof now states: 'It shall be prohibited to advertise, in the scope of business and for the purpose of competition, for registration in directories, such as yellow pages, telephone directory or similar lists, by way of payment form, money order form, invoice, offer of correction or similar manner or to offer such registrations directly without unequivocally and also by clear and graphic means pointing out that such advertisement is solely an offer for a contract',
- R. whereas such practices have been applied for a number of years, creating numerous victims and significantly damaging and distorting the internal market,
1. Expresses its concern at the problem raised by the petitioners, which appears to be widespread and of a cross-border nature and which has a significant financial impact, notably on small businesses;
  2. Considers that the cross-border nature of this problem imposes a duty on the Community institutions to provide an adequate remedy to victims, such that the validity of contracts concluded on the basis of misleading advertising can be effectively contested, annulled or terminated, and such that victims may obtain reimbursement of the money paid by them;

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3. Urges victims to report cases of business scams to national authorities, and calls on Member States to provide small and medium-sized enterprises with the know-how needed in order to enable them to file complaints with governmental and non-governmental authorities, by ensuring that communication pathways are open and that victims are aware that advice is available so that they can seek appropriate guidance before they settle fees demanded from them by misleading business-directory companies; urges Member States to set up and maintain a centralised database of these complaints;

4. Regrets that, despite the widespread nature of these practices, EU and national legislation does not appear to be adequate when it comes to providing a significant means of protection and an effective remedy, or is not being adequately enforced at national level; regrets that national authorities also seem unable to provide a remedy;

5. Welcomes the efforts made by European and national business organisations to raise awareness among their members, and calls on them to intensify their efforts in collaboration with grass-roots organisations so that fewer people become victims of misleading business-directory practices in the first place; expresses concern that some of these organisations have consequently been pursued through the courts by the misleading business-directory companies specified in their awareness-raising activities on the basis of alleged defamation or similar accusations;

6. Welcomes the action taken by certain Member States such as Italy, Spain, the Netherlands, Belgium and the United Kingdom, but most notably by Austria, in trying to prevent business-directory companies from engaging in misleading practices; considers, however, that these efforts remain insufficient and that there is still a need for the coordination of control at an international level;

7. Calls on the Commission and on Member States to step up their efforts, in full cooperation with national and European business representative organisations, to raise awareness of this problem so that more people are informed and empowered to avoid misleading advertising which can lure them into unwanted advertising contracts;

8. Calls on the Commission to address the problem of business scams in the context of its 'Small Business Act for Europe' initiative, as proposed in its communication entitled 'A Single Market for 21st Century Europe', and to engage with the Enterprise Europe Network, the Solvit network and the relevant DG portals as a further means of delivering information and assistance regarding these problems;

9. Regrets that Directive 2006/114/EC, which applies to business-to-business transactions such as the one at issue in this case, appears to be either insufficient in terms of providing an effective remedy or inadequately enforced by Member States; requests the Commission to report by December 2009 on the feasibility and possible consequences of amending Directive 2006/114/EC in such a way as to include a 'black' or 'grey' list of practices that are to be regarded as misleading;

10. Recalls that, whereas the Commission has no power to enforce Directive 2006/114/EC directly against individuals or companies, it does have the duty, as the guardian of the Treaty, to ensure that that Directive is adequately and effectively implemented by Member States; therefore calls on the Commission to ensure that Member States fully and effectively transpose Directive 2005/29/EC so that protection is guaranteed in all Member States, and to influence the shape of the legal and procedural tools available, as in the case of Directive 84/450/EEC, which provided tools to Austria, Spain and the Netherlands, thereby fulfilling its duty as guardian of the Treaty in terms of protection for businesses whilst ensuring that the right of establishment and freedom to provide services are not impaired;

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11. Calls on the Commission to step up its monitoring of the implementation of Directive 2006/114/EC, most notably in those Member States where misleading business-directory companies are known to be based, but in particular in Spain, where the business-directory company that is most often named by petitioners is established, and in the Czech Republic and Slovakia where a court judgment has been delivered against victims in a manner which calls into question the implementation of Directive 2006/114/EC in those countries; calls on the Commission to report back to Parliament on its findings;

12. Regrets that Directive 2005/29/EC does not cover business-to-business transactions and that Member States appear reluctant to extend its scope; notes, however, that Member States may unilaterally extend the scope of their national consumer legislation to cover business-to-business transactions, and actively encourages them to do so and also to ensure cooperation between Member States' authorities as provided for in Regulation (EC) No 2006/2004 in order to make it possible to track down cross-border activities of this kind engaged in by business-directory companies established within the EU or in a third country; moreover, requests the Commission to report by December 2009 on the feasibility and possible consequences of extending the scope of Directive 2005/29/EC to cover business-to-business contracts with specific regard to point 21 of Annex I thereto;

13. Welcomes the example set by Austria, which has introduced a specific prohibition in its national legislation on misleading business directories, and calls on the Commission, in the light of the cross-border nature of this problem, to propose legislation to extend the scope of Directive 2005/29/EC, based on the Austrian model, in a way that specifically prohibits advertising in business directories unless prospective clients are unequivocally and by clear and graphic means informed that such advertisement is solely an offer for a contract against payment;

14. Notes that national legislation is often inadequate to pursue remedies against business-directory companies that are based in other Member States, and therefore urges the Commission to facilitate more active cross-border cooperation among national authorities in order to enable them to provide a more effective remedy to victims;

15. Regrets that Regulation (EC) 2006/2004 is not applicable to business-to-business transactions and therefore cannot be relied upon as a means of combating misleading business directories; calls on the Commission to propose legislation to extend its application accordingly;

16. Welcomes the example of Belgium, where all those affected by misleading practices are able to take legal action in their country of residence;

17. Notes that the Austrian experience shows that the right of victims to have collective legal action taken against directory companies by trade associations or similar bodies appears to be an effective remedy which could be replicated in the initiatives currently being contemplated by the Commission's DG COMP in relation to actions for damages for breach of the EC competition rules and DG SANCO on European-level collective redress for consumers;

18. Urges Member States to ensure that victims of misleading advertising have a clearly identifiable national authority to which they can make a complaint and from which they can seek a remedy even in cases, such as these, where the victims of misleading advertising are businesses;

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19. Calls on the Commission to develop best-practice guidelines for national enforcement agencies which may be followed when cases of misleading advertising are brought to their attention;
  20. Calls on the Commission to pursue international cooperation with third countries and with the competent international organisations so that misleading business-directory companies based in third countries do not cause harm to businesses based in the European Union;
  21. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.
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## The European Job Mobility Action Plan (2007-2010)

P6\_TA(2008)0624

### European Parliament resolution of 18 December 2008 on the European Job Mobility Action Plan (2007-2010) (2008/2098(INI))

(2010/C 45 E/05)

*The European Parliament,*

- having regard to the Treaty establishing the European Community, and in particular Articles 18, 136, 145, 149 and 150 thereof,
- having regard to the Commission communication of 6 December 2007 entitled 'Mobility, an instrument for more and better jobs: the European Job Mobility Action Plan (2007-2010)' (COM(2007)0773),
- having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications <sup>(1)</sup>,
- 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 <sup>(2)</sup>,
- having regard to Decision 2241/2004/EC of the European Parliament and of the Council of 15 December 2004 on a single Community framework for the transparency of qualifications and competences (Europass) <sup>(3)</sup>,
- having regard to Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community <sup>(4)</sup>,
- having regard to Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community <sup>(5)</sup>,
- having regard to the Commission communication of 27 June 2007 entitled 'Towards common principles of flexicurity: more and better jobs through flexibility and security' (COM(2007)0359),
- having regard to the final report of 25 January 2007 on the implementation of the Commission's action plan for skills and mobility (COM(2007)0024),
- having regard to the Commission communication of 13 February 2002 on the action plan for skills and mobility (COM(2002)0072),
- having regard to the OECD's Economic Survey of the European Union 2007: Removing obstacles to geographic labour mobility, and in particular chapter 8 thereof,

<sup>(1)</sup> OJ L 255, 30.9.2005, p. 22.

<sup>(2)</sup> OJ L 158, 30.4.2004, p. 77.

<sup>(3)</sup> OJ L 390, 31.12.2004, p. 6.

<sup>(4)</sup> OJ L 149, 5.7.1971, p. 2.

<sup>(5)</sup> OJ L 74, 27.3.1972, p. 1.

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- having regard to the Commission proposal for a Council Recommendation on the mobility of young volunteers across Europe (COM(2008)0424),
  - having regard to the EURES Guidelines for 2007-2010 adopted in June 2006,
  - having regard to the EURES activity report for 2004-2005 presented by the Commission on 16 March 2007 under the title 'Towards a single European labour market: the contribution of EURES' (COM(2007)0116),
  - having regard to its resolution of 5 September 2007, adopted following oral question B6-0136/2007 on the EURES activity report for 2004-2005 entitled 'Towards a single European labour market' <sup>(1)</sup>,
  - having regard to the resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council of 14 December 2000 concerning an action plan for mobility <sup>(2)</sup>,
  - having regard to its resolution of 23 May 2007 on promoting decent work for all <sup>(3)</sup>,
  - having regard to the Commission communication of 2 July 2008 entitled 'Renewed Social Agenda: opportunities, access and solidarity in 21st century Europe' (COM(2008)0412),
  - having regard to the Special Eurobarometer survey no 261 of 2006 on European Employment and Social Policy, according to which EU citizens regard mobility as being of growing importance,
  - having regard to Rule 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 Culture and Education, the Committee on Women's Rights and Gender Equality and the Committee on Petitions (A6-0463/2008),
- A. whereas freedom of movement and freedom of establishment are rights laid down in Articles 18 and 43 of the EC Treaty and whereas encouraging mobility in the areas of education and training is provided for in Articles 149 and 150,
- B. whereas worker mobility is a key instrument for the achievement of the Lisbon Strategy objectives but still remains low in the EU, even among women,
- C. whereas EU-wide mobility with security for workers is one of the fundamental rights of Union citizens under the Treaty, as well as one of the basic pillars of the European social model, and is also one of the principal means of attaining the objectives of the Lisbon Strategy,
- D. whereas Community legislation on the coordination and implementation of social security schemes should, if necessary, be adapted to reflect new forms of mobility and to ensure that EU migrant workers do not face a loss of social security protection,
- E. whereas about 2 % of citizens of working age currently live and work in a Member State other than their own and whereas some 48 % of all EU migrants are women,
- F. whereas the Commission has set up a High Level Expert Forum on increasing mobility for Europeans, with the principal objective of identifying measures to stimulate youth mobility, develop aid for mobility in the training context, and improve mobility for artists, managers and volunteers,
- G. whereas the issue of mobility is an important element in the Renewed Social Agenda, the Agenda determining the opportunities for it and imposing the principles of access and solidarity,

<sup>(1)</sup> OJ C 187 E, 24.7.2008, p. 159.

<sup>(2)</sup> OJ C 371, 23.12.2000, p. 4.

<sup>(3)</sup> OJ C 102 E, 24.4.2008, p. 321.

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- H. whereas the dynamic labour market poses serious challenges to workers and especially to women with children, forcing them to make compromises between professional and family life,
- I. whereas the insufficient adaptation of social security schemes in the Member States creates difficulties for women, with regard for example to pregnancy, child raising and career opportunities,
- J. whereas the free movement of workers has been and remains one of the four fundamental freedoms enshrined in the Treaty; whereas as regards ensuring the free movement of workers significant progress has been made in Community legislation in the field of social security and this has facilitated the movement of workers within the Union; whereas any remaining administrative and legal barriers hindering transnational mobility must be removed; whereas more must be done to ensure that workers know their rights and can assert them,
- K. whereas, since ensuring mobility entails facilitating matters across the entire range of needs and activities of workers and their families, Parliament has in numerous resolutions drawn attention to the obstacles to mobility and to the right of Union citizens to reside outside their Member State of origin, and has proposed possible means of removing such obstacles,
- L. whereas experience has shown that identifying obstacles and advancing proposals has not sufficed for the complete removal of the obstacles to freedom of movement and mobility; whereas the problem has in the past been the subject of numerous texts of the EU institutions which have spelt out the problems and have proposed corrective measures which have, however, not always been implemented,
- M. whereas Parliament has noted in these cases that willingness to implement the necessary measures does not always extend to measures which are important to citizens in terms of eliminating administrative or legal barriers to mobility,
- N. whereas Parliament has on numerous occasions expressed its position on this issue directly affecting the lives of Union citizens, and will, in its capacity as an institution directly and democratically elected by the citizens, continue actively to seek solutions to all problems encountered by citizens in exercising their right to mobility within the territory of the EU,
- O. whereas the sense of Union citizenship of the nationals of the Member States draws its strength partly from the possibility of employment elsewhere within the internal market and whereas therefore not only economic interests should be the driving force behind mobility but also the objective of enabling Union citizens to identify themselves more readily as such,
1. Welcomes the Commission's initiative, and reaffirms the crucial importance of mobility, both within the labour market and between Member States and regions, for consolidating the EU labour market and attaining the Lisbon objectives; supports the launch of the Action Plan, and wishes to be informed regularly about the monitoring of the implementation of the measures contained in it;
  2. Welcomes the Commission's intention to promote mobility on fair conditions, including by opposing clandestine employment and social dumping;
  3. Welcomes the Commission's proposal for a Council Recommendation on the mobility of young volunteers across Europe, however regrets the fact that the Commission has not provided adequate time for Parliament to issue an opinion on the proposal before the recommendation is adopted;
  4. Notes that a European Year of Volunteering would be an effective tool in implementing the actions contained within the Council Recommendation on the mobility of young volunteers across Europe;

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5. Considers that the EU needs to support the inclusion of the concept of labour mobility in all Community policies, especially those concerning the completion of the internal market, the protection of workers, rules concerning posted workers and protection against non-secure work, which may affect mobility within the EU or combat discrimination; calls on the Commission to treat labour mobility as a priority transversal policy, involving all relevant EU policy areas and all levels of authority in the Member States;
6. Stresses that labour mobility is based on the fundamental principle of the free movement of persons within the internal market as laid down in the EC Treaty;
7. Calls upon the Commission, in order to further promote labour mobility, to draw up a long-term mobility strategy which takes into account the requirements of the labour market, economic trends and the prospects for enlargement of the EU, as only a long-term strategy can both guarantee free movement of workers without conflict and properly address brain-drain;
8. Calls on the Commission to take into account the specific needs of female workers of all ages wishing to exercise freedom of movement and to include concrete steps to meet their needs in the four areas of the European Job Mobility Action Plan;
9. Urges the Commission to prioritise the streamlining of administrative practices and administrative cooperation so as to allow synergies to develop between national institutions and authorities whose interaction is decisive when trying to resolve problems between Member States efficiently; in addition, considers that Member States should vigorously tackle all legal and administrative barriers and obstacles to geographical mobility at European, national, regional and local levels, such as the non-recognition of mobility-related experiences for career prospects or social security and pensions, particularly within small and medium-sized enterprises;
10. Considers that, while the Commission's Action Plan covers the main issues relating to mobility, much more action still needs to be taken, notably creating stronger links between education systems and the labour market, providing proper information on mobility, maintaining acquired linguistic abilities for workers and their families preparing for mobility via the teaching of foreign languages and, not least, in vocational training and learning systems;
11. Calls on the Member States actively to promote foreign language teaching (especially for adults), given that linguistic barriers are among the main remaining obstacles to the mobility of workers and their families;
12. Considers that the Member States should ensure that the labour rights and collective agreements of citizens who choose to move to another Member State are fully respected, without discrimination between nationals of that Member State and non-nationals; believes that, to that end, the Commission's measures should focus on ensuring that migrant citizens receive equal treatment and are not turned into a cheap labour force;
13. With a view to creating stronger links between training and the labour market, urges the Commission and the Member States to bring this matter before the sectoral consultation committees; considers that industry and the trades could provide regular information about the occupational fields most open to mobility;
14. Considers that long-term labour mobility in all fields can play a key role in promoting the growth and employment objectives of the Lisbon Strategy if combined with safeguarding workers' social security and trade union rights, in accordance with the traditions and customs of the Member States; believes that an expanded, EU-wide mobile workforce, in combination with appropriate working conditions, education programmes and

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social protection schemes, can constitute a response to such current developments and can significantly enhance efforts to do so in the context of the challenges of the global economy, an ageing population and rapid change in the workplace; emphasises that the social, economic and environmental aspects of mobility must be taken into account;

15. Is convinced that guaranteed labour mobility is a means of consolidating the Lisbon Strategy's economic and social dimensions and should be set up in the best possible way, achieving the objectives of the renewed social agenda, and tackling a range of challenges including globalisation, restructuring industrial change, technological progress, population trends and the integration of migrant workers; is also convinced that mobility between careers and industries (occupational mobility) enables employees to renew and adapt their knowledge and skills and thus exploit new career opportunities;

16. Reiterates that labour mobility is a key instrument for the efficient working of the internal market, via the objectives of the Lisbon Strategy and the eight principles proposed on 'flexicurity' in the Commission communication of 27 June 2007; calls, therefore, on the Member States to take appropriate measures to emphasise flexicurity on the one hand and to protect workers' security on the other, bearing in mind the fundamental principles of opportunities, access and solidarity referred to in the renewed social agenda;

17. Calls on the Member States and stakeholders to consider and remove the obstacles to the mobility of women workers, by providing, among other things, fair access to qualified jobs and high-level positions, equal pay, flexible working conditions, adequate healthcare and childcare services, good quality education facilities for children, portable pension rights, and ensuring the elimination of gender stereotypes;

18. Recommends that Member States and regional and local authorities actively promote special employment, training, educational, distance learning and language programmes to create a more women-friendly labour market and to enable the reconciliation of professional and family life;

19. Calls on the Member States to include both labour and geographical mobility as a priority in their national employment and lifelong learning programmes;

20. Notes with concern that some Member States are maintaining labour market restrictions on workers from the new Member States, despite the fact that economic analyses and statistical data neither justify these restrictions nor support the fears of their citizens and governments; calls on the Council to ensure greater involvement and closer monitoring on the part of the EU institutions, especially the Parliament, with regard to the process of authorisation and justification by Member States of the transitional periods for access to their labour markets for the citizens of the new Member States, including from the first year of membership;

21. Stresses that the mobility of workers should not be construed by some employers as an opportunity to reduce wages, cut back social security or, in general, to downgrade working conditions; urges the Member States to take appropriate measures not only to eliminate all forms of discrimination but also to ensure the best possible conditions for the activities of migrant workers and their families;

22. Notes with concern certain moves by Member States to alter their internal legal frameworks for immigration and interpret and apply the principle of the free movement of labour in a manner that is contrary to the letter and spirit of the Community rules in force; calls for an immediate end to such practices and encourages the Member States to introduce comprehensive schemes for the integration of Union citizens exercising their right of free movement on their territory, where appropriate, in cooperation with the Member States of origin;

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23. Calls on the Member States and the Commission to work together in order to draw up, implement, monitor and evaluate a programme of social reintegration for citizens and their families returning to their Member State of origin after a period spent working in another;

24. Acknowledges that, while mobility can provide a solution to labour shortages in the receiving countries, it may cause labour shortages in the countries from which workers come; draws the attention of the Commission and Member States to the fact that, in every country, the inactive population offers a significant labour potential, whose mobilisation requires EU and Member-State resources in equal measure;

25. Draws the Commission's attention to the fact that there remain within the EU a large number of administrative and legislative barriers to labour mobility and to the mutual recognition of qualifications of every level and professional experience; reaffirms its commitment to a solution to these problems, and calls on the Commission to undertake close monitoring of restrictions incompatible with Community law, and to take action against them;

26. Encourages the Member States to carry out, prior to the implementation of new national laws in the field of care and public health and social and fiscal systems, a border impact study to highlight in advance any problems that will have consequences for labour mobility;

27. Takes the view that border workers occupy a special position in the area of European labour mobility;

28. Encourages the Member States to speed up the implementation of the common framework for qualifications (European Qualifications Framework — EQF); considers that, while alignment with this reference system is due in 2010, its accelerated implementation in all Member States could reduce the obstacles currently facing workers;

29. Welcomes the Commission's initiative with regard to EUNetPaS, which is a first step in encouraging Member States and EU stakeholders to enhance collaboration in the field of patient safety; however notes that, throughout the EU, there is still diversity in the regulation of healthcare professionals and calls on the Commission to encourage Member States and their regulatory authorities for healthcare professionals to share information and establish standardised accreditation systems for healthcare professionals in order to ensure patient safety throughout the EU;

30. Notes that the lack of a common framework for comparing, transferring and recognising vocational qualifications at EU level is a serious barrier to transnational mobility; welcomes the Commission's initiative on the establishment of the European Credit System for Vocational Education and Training;

31. Calls on the Commission and the Member States to ensure that employers and trade representatives become involved as quickly as possible in implementing the EQF and hence that the system for the recognition of qualifications can take effect on the labour market;

32. Calls on the Commission, the Member States, and the two sides of industry to open discussions with a view to harmonising salary scales with the different levels of qualifications laid down in the EQF so as to enable labour mobility to be guaranteed by virtue of wage levels corresponding to workers' skills;

33. Encourages educational authorities to work together pro-actively on the mutual recognition of qualifications — gained from formal, informal and non-formal education — and professions which correspond to the standards set by Member States; considers it crucial that Member States make full use of the EQF and give appropriate follow-up to forthcoming initiatives on the European Credit system for Vocational Education and Training, so that classification in the levels of the national educational system and of the Lifelong Learning

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programme allows mobile workers to continue their training; endorses the Commission's commitment to developing Europass in order to make qualifications more readable for employers; stresses the value of the Euraxess Services;

34. Regrets that in some Member States insufficient priority is being given and insufficient funding is being dedicated to developing and implementing lifelong learning strategies; encourages Member States to use financing available from the Structural Funds, and in particular from the European Social Fund more actively in order to develop and implement such schemes;

35. Calls on the Commission to reduce legislative and administrative obstacles, and stresses the need for further progress in the recognition and cumulation of social security entitlements and in the portability of pensions;

36. Takes the view that the portability of social security provisions is better coordinated on the basis of Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems <sup>(1)</sup>, and bilateral agreements;

37. Urges the Member States to implement fully Regulation (EEC) No 1408/71 and Regulation (EC) No 883/2004 (applicable from 2009), as well as related legislation on social security matters and the payment of allowances of any kind; calls on the Member States and the Commission to urgently address the recurring problems raised in petitions and complaints concerning social security, pensions, and health care; supports the Commission's plans for the introduction of an electronic version of the European health insurance card; suggests that there should also be an electric revision of form E106;

38. Calls on the Commission to review its visa policy for third country participants in recognised EU volunteer programmes, with a view to introducing a more liberal visa regime especially for volunteers from countries neighbouring the EU;

39. With regard to the new forms of mobility, considers it necessary to examine existing legislation with a view to determining if it is still up-to-date and finding appropriate means of adapting it to the new flexible conditions on the European labour market, taking account not only of the need to safeguard workers' rights but also examining additional problems which migrant workers and their families might face; believes, at the same time, that an analysis needs to be made of the real extent of implementation in all Member States of the Community legislation on the free movement of labour and the right of residence of workers and their families; considers that, where relevant, recommendations should be drawn up for improving the legislative and operational framework;

40. Advocates a discussion on social security arrangements, inter alia with reference to access to health care and the fact that workforce mobility can, in some cases, lead to the loss of social security benefits; calls on the Commission to examine whether Regulation (EC) No 883/2004, implementing Regulation (EEC) No 574/72 and related administrative practices need adapting to respond to changing patterns and new forms of worker mobility, including short-term labour mobility;

41. Considers that the Commission should investigate the mobility-inhibiting effects that arise as a result of the lack of coordination between tax agreements and the new social security regulation (Regulation (EC) No 883/2004);

<sup>(1)</sup> OJ L 166, 30.4.2004, p. 1.



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42. Supports the Commission in its plans for action to improve its proposal for a directive on minimum requirements for enhancing worker mobility by improving the acquisition and preservation of supplementary pension rights, because, with the increasing expansion of occupational pension schemes, worker-friendly rules on portability must be sought; accordingly calls on the Commission to submit a revised proposal for a directive on the portability of occupational pensions;

43. Considers that the mobility of workers of both genders with families (meaning children and dependent relatives) depends to a great extent on the availability and affordability of services (such as child care and care for senior citizens, education facilities, day centres, special services); considers, at the same time, that job mobility should promote personal fulfilment and improve quality of life and work;

44. Considers, however, that the proposal for improving exchanges of information and best practice between national authorities, as well as that concerning an electronic version of the European health insurance card, should be implemented with due protection of data: Member States must guarantee that personal data are not used for purposes other than those relating to social security, except where the party concerned expressly allows it; requests further information on this initiative and how it can enhance workforce mobility; calls on the Commission to examine and contribute to the possibility of creating, in the near future, a single European card including all information relating to the contributions paid by and the social rights of the individual concerned in all Member States where that person has worked;

45. Supports the actions of the TRESS network, and believes that it should undertake an ongoing investigation of the different types of mobility, with a view to adapting them to Community legislation; calls on the Commission to include employers and trade unions in this network, recalling that it is often employers who support workers over legal issues relating to social insurance or obtaining documents needed in order to work; stresses that the EURES databases need to be easy to access and must be updated regularly and that the widest possible access to them must be ensured; considers that the EURES network should collaborate structurally and institutionally with the TRESS network;

46. Expresses its ongoing support for the contribution of the EURES network to facilitating workforce mobility in the EU; recommends that EURES services should include information on specific Internet networks and portals for particular sectors, and that it should also cooperate with other information providers, especially specialist bodies in the Member States, with regard to job opportunities in the Union and with particular reference to national labour authorities, which can directly provide individually tailored advice to job-seekers;

47. Considers that EURES crossborder projects should give priority to carrying out border impact studies and seminars, so that the entry into force of Regulation (EC) No 883/2004 on coordination can take place effectively and efficiently;

48. Supports the objectives announced in the third section of the Action Plan for Work Mobility, in line with the enhancement of the institutional capabilities of EURES; stresses the diverse make-up of the workforce and the need for services adapted to all categories of worker, over and above those listed in the Commission programme, namely older and disabled people who are disadvantaged but can be exploited by the labour market, those who possess special legal status in comparison with other workers, the self-employed, workers returning to employment after a break from work, and so on; stresses that all the information available through the EURES network should be accessible to disabled people;

49. Calls upon Member States, through their employment authorities, in order to increase mobility, to provide a one-stop shop for all workers, including those intending to work abroad, so that they can obtain information from a single source concerning the possibilities of working abroad, administrative factors, social rights and legal conditions;



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50. Supports the idea of transforming EURES into a one-stop mobility information portal which would operate as a centralised helpdesk where potentially mobile workers can obtain information about all aspects of job mobility — not only about job vacancies, social security, health care, pensions and the recognition of qualifications, but also about language issues, housing, employment for spouses, education for children and integration in general in the target state; points out that, where appropriate, it should be expanded to the benefit of third-country nationals, including those who have not yet acquired long-term resident status;

51. Fully endorses the existing information mechanisms but at the same time suggests that all relevant sites, portals, etc. be checked in terms of efficiency and, if necessary, reorganised, harmonised or regrouped so as to make them more user-friendly;

52. Draws attention to the issue of access to the EURES network for citizens living in rural, island, mountain and remote regions; calls on the Commission and the Member States to ensure that the information on this portal is also made accessible to these population groups;

53. Considers that the supplementary budget of EUR 2 million allocated to innovative mobility projects up to 2013 is too low, given the need to inform as many Union citizens as possible about labour mobility in the Union and the objectives set out in the various programme documents in support of labour mobility in the Union;

54. Underlines the need for comparable and reliable statistics on the mobility flows of workers, students, teachers and researchers in order to improve the Commission's knowledge of mobility, as well as its monitoring of the abovementioned Action Plan;

55. Believes that, as things stand, there is an information deficit as regards the potential professional and career benefits of spending time working abroad and regarding the employment and social-security conditions for working abroad and how this also promotes European cultural integration; supports the Commission in its actions to inform the public about these matters;

56. Points to Parliament's programme of traineeships for people with disabilities, which started in 2007, and the Commission's programme of traineeships for people with disabilities, which started in the autumn of 2008; considers that such positive measures promote the mobility of people with disabilities and can make a significant contribution towards getting them into work; calls on the Member States to support and promote corresponding best practice at national, regional and local levels;

57. Draws attention to the fact that Member States should promote and exchange good practice and mutual learning schemes for mobility actions, financed by the cohesion fund, and especially the European Social Fund;

58. Considers that, in addition to online services, supplementary means of supplying information should be explored and put in place in the Member States and in the regions of the EU with a view to the widespread distribution of information on job mobility within Member States; considers that a job mobility call centre related to EURES should be put in place with a view to promptly providing workers with information on specific questions in the national language and at least in a second European language;

59. Expresses its ongoing support for such actions as job fairs, European days for publicising work opportunities throughout the Union, or European partnerships for labour mobility; considers, however, that the budget allocated to such actions is not sufficient in relation to the goal of publicising the EU's action in this field;

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60. Stresses the need to distinguish the specific mobility of artists from that of workers in the Union in general, in terms of the nature of the performing arts and the irregularity and unpredictability resulting from a particular employment regime;

61. Is aware of the specific nature of certain occupations, such as those in the cultural and sporting fields, for which mobility, be it geographical or between jobs, is an inherent characteristic; calls on the Commission and the Member States to examine these circumstances attentively and to apply the necessary measures, especially with respect to the labour rights of workers in these fields, in order to ensure that their mobility is not impeded by administrative measures;

62. Welcomes the fact that the Commission is also taking measures in its Action Plan to improve the situation of third country citizens; recommends that an integrated labour mobility policy should always take into account the migration of third-country citizens;

63. Stresses the need for close cooperation between national authorities in order to identify and eliminate inequities in the fields of justice and taxation while respecting national competencies;

64. Considers it essential to raise awareness of the possibilities for submitting complaints and petitions about obstacles to job mobility and infringements of relevant Community legislation;

65. Supports and encourages implementation of the concept of equitable mobility, and calls on the Commission to ensure its application, for example by involving workers' and employers' organisations in order to prevent undeclared work and the downgrading of working conditions;

66. Calls on firms to support worker mobility, for example through flexible working hours and teleworking;

67. Calls upon the Commission to seek instruments by means of which to eliminate the complex obstacles which can prevent workers from opting to work abroad, such as difficulty in finding work for one's partner or spouse, high relocation costs, language barriers, the gender pay gap and the risk of losing tax advantages or no longer being able to contribute to national pension, health insurance or unemployment insurance schemes; stresses the importance of lifelong learning, with particular reference to the importance of language learning, which is essential in order to meet the changing demands of the labour market;

68. Welcomes the Commission's intention to follow up the proposal which it submitted in 2005 and its amended proposal of 2007 for a directive laying down minimum requirements for enhancing worker mobility by improving the vesting and preservation of supplementary pension rights;

69. Calls on the Commission and Member States to facilitate the mobility of vulnerable groups of the population and help remove the obstacles which they encounter by creating more quality jobs, combating discrimination, tackling new forms of social exclusion, supporting gender equality, supporting the family and effectively ensuring access to the workplace, accommodation services and transport;

70. Emphasises that women with children are less mobile than men and calls for appropriate measures to be taken to offset that imbalance;

71. Supports Solvit as an instrument for swift resolution of problems in the internal market and equally of problems related to worker mobility; recommends that more resources to be made available to Solvit;

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72. Calls on the Commission and the Member States to promote programmes in support of mobility for young professionals; believes that such programmes need to be grounded in the employer/employee relationship, and should recognise the value added arising from experience, abilities and skills, including knowledge of languages, acquired outside one's home country;
73. Believes that, as student and teacher mobility are essential elements of job mobility, more attention should be paid to initiatives like the Bologna Process and the Erasmus, Leonardo da Vinci and other programmes when it comes to the implementation of the European Job Mobility Action Plan;
74. Congratulates the Commission on its initiative of consulting all parties involved in promoting labour mobility in the Union; believes that this dialogue will enhance transparency, stimulate networking and the exchange of best practice and innovative approaches so as to boost mobility and accelerate the implementation of mobility on a comprehensive basis, as well as consolidating the underlying principles and values;
75. Acknowledges the contributions made by the Comenius, Erasmus and Leonardo programmes to enabling young people to study abroad, and stresses their importance from the point of view of later professional mobility; calls upon the Commission to examine the scope for expanding access to the programmes, bearing in mind the special needs of disadvantaged groups;
76. Calls for a strong commitment on the part of European schools and universities and of governments to significantly boosting job mobility, for example through their participation in the network of stakeholders mentioned by the Commission in its Communication;
77. Believes that cooperation between private or public companies and educational institutions should be strengthened;
78. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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## **Lifelong learning for knowledge, creativity and innovation — 'Education and Training 2010 work programme'**

P6\_TA(2008)0625

### **European Parliament resolution of 18 December 2008 on delivering lifelong learning for knowledge, creativity and innovation — implementation of the 'Education and Training 2010 work programme' (2008/2102(INI))**

(2010/C 45 E/06)

*The European Parliament,*

- having regard to Articles 149 and 150 of the EC Treaty,
- having regard to the Commission Communication of 12 November 2007 entitled 'Delivering lifelong learning for knowledge, creativity and innovation: Draft 2008 joint progress report of the Council and the Commission on the implementation of the Education and Training 2010 work programme' (COM(2007)0703), as well as to the accompanying Commission Staff Working Document (SEC(2007)1484),
- having regard to the detailed work programme on the follow-up of the objectives of education and training systems in Europe <sup>(1)</sup> and to the subsequent joint interim reports on progress towards its implementation,

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<sup>(1)</sup> OJ C 142, 14.6.2002, p. 1.

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- having regard to the Council Resolution of 15 November 2007 on education and training as a key driver of the Lisbon Strategy <sup>(1)</sup>,
  - having regard to Decision No 1720/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning <sup>(2)</sup>,
  - having regard to the Council Resolution of 15 November 2007 on the new skills for new jobs <sup>(3)</sup>,
  - having regard to the Commission Staff Working Document of 28 August 2007 entitled 'Towards more knowledge-based policy and practice in education and training' (SEC(2007)1098),
  - having regard to the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning <sup>(4)</sup>,
  - having regard to the Recommendation 2006/143/EC of the European Parliament and of the Council of 15 February 2006 on further European cooperation in quality assurance in higher education <sup>(5)</sup>,
  - having regard to the European Quality Charter for Mobility <sup>(6)</sup>,
  - having regard to its resolution of 13 November 2007 on the role of sport in education <sup>(7)</sup>,
  - having regard to the Recommendation 2006/962/EC of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning <sup>(8)</sup>,
  - having regard to its resolution of 16 January 2008 on adult learning: 'It is never too late to learn' <sup>(9)</sup>,
  - having regard to its resolution of 23 September 2008 on the Bologna Process and student mobility <sup>(10)</sup>,
  - having regard to its resolution of 23 September 2008 on improving the quality of teacher education <sup>(11)</sup>,
  - having regard to the Presidency Conclusions of the European Council of 13-14 March 2008,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education and the opinion of the Committee on Women's Rights and Gender Equality (A6-0455/2008),
- A. whereas European Union is seeking, by 2010, become a world leader in the quality of education and training systems, such systems being crucial to further progress in the Lisbon Process,

<sup>(1)</sup> OJ C 300, 12.12.2007, p. 1.

<sup>(2)</sup> OJ L 327, 24.11.2006, p. 45.

<sup>(3)</sup> OJ C 290, 4.12.2007, p. 1.

<sup>(4)</sup> OJ C 111, 6.5.2008, p. 1.

<sup>(5)</sup> OJ L 64, 4.3.2006, p. 60.

<sup>(6)</sup> OJ L 394, 30.12.2006, p. 8.

<sup>(7)</sup> OJ C 282 E, 6.11.2008, p. 131.

<sup>(8)</sup> OJ L 394, 30.12.2006, p. 10.

<sup>(9)</sup> Texts Adopted, P6\_TA(2008)0013.

<sup>(10)</sup> Texts Adopted, P6\_TA(2008)0423.

<sup>(11)</sup> Texts Adopted, P6\_TA(2008)0422.

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- B. whereas progress has been made in increasing the autonomy and the accountability of universities and whereas there is a need to strengthen the support offered to them within this process,
  - C. whereas education and training systems should provide equal opportunities for women and men,
  - D. whereas incorporating the gender equality dimension into education and training policies is crucial to the success of the Lisbon Strategy, one objective of which is to tackle inequalities between women and men in European labour markets, inter alia by achieving a 60 % rate of employment among women by 2010,
  - E. whereas Member States must, by working together and exchanging good practice, drive forward reform of their national education and training systems,
  - F. whereas coherent and comprehensive lifelong learning strategies and tools agreed by Parliament and the Council should be implemented consistently in order to achieve the Lisbon Strategy objectives and to strengthen the knowledge triangle,
  - G. whereas Europe needs higher skill levels, and whereas creativity and innovation ought to be promoted at all stages of education and training,
  - H. whereas provision has to be made for future skills needs in the areas of the environment and society, for example by making climate change and other environmental issues cross-cutting subjects in all forms of learning,
  - I. whereas curricula should contribute to students' personal development by including the teaching of human rights and European values,
  - J. whereas the quality and effectiveness of education and training systems, and their accessibility to citizens, must be seen as major policy goals at European level,
  - K. whereas education and training must always have regard to local and regional possibilities, characteristics and needs,
1. Welcomes the abovementioned Commission Communication of 12 November 2007 and the improvements which it details;
  2. Notes that action in the field of education and training should be consistently supported with complementary measures of a socio-economic nature to improve the overall standard of living of European citizens;
  3. Stresses the need to integrate migrants and minorities (especially Roma people), and to work on the inclusion of groups with special needs (primarily women and disabled and elderly people) at all levels and in all areas of education; considers that additional support should be provided to migrants, while ethnic minorities and Roma people should be assisted by trained staff who belong to the same minority or at least speak their native language;
  4. Underlines the importance of sport in education and training and the need to give sport particular consideration, for example by enhancing the provision of physical education and sport throughout all forms of education, from pre-primary to university, and calls for at least three teaching periods per week to be set aside for sport in the curriculum and for support to be made available for schools to go beyond this prescribed minimum where possible;

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5. Emphasises the crucial role of families and the social environment in every aspect of education and training;
6. Notes that education is essential for the social and personal development of both women and men; underlines, therefore, the importance of reinforcing education and training as a fundamental aspect of promoting equality between women and men;
7. Deplores the fact that educational systems discourage women from entering traditionally male-dominated fields of employment and vocational training, but welcomes measures promoting gender equality and urges Member States to launch programmes aimed at giving women the most diversified professional guidance possible and subsequent assistance in the employment market;
8. Stresses that the existing inequality of opportunity between women and men as regards high-quality lifelong learning and education are all the more marked in island regions and geographically and socially disadvantaged regions; calls therefore for greater promotion of educational initiatives within the framework of regional policy;
9. Notes the chronic under-representation of women in certain fields of study, at all levels, as well as in the research sector; encourages therefore practical, positive actions to be taken to remedy the situation;
10. Observes that students with interrupted study patterns, especially young mothers, can suffer discrimination, and calls for the adoption of more flexible approaches in order to facilitate the resumption of studies or training after the birth of a child and the combining of studies with professional and family life;
11. Observes that the quality of curricula and teaching must be improved across the board, that teachers' social security must be improved, and that more attention must be paid to their continuing training and mobility;
12. Emphasises the fact that media literacy and ICT knowledge should be strongly promoted and recommends both that media education should form an integral part of the curriculum at all levels of schooling and that media teaching modules should be offered for teachers and elderly people;
13. Points out that the transition between different education and training systems and between formal, non-formal and informal learning must be facilitated;
14. Urges the Council to monitor the practical implementation of European education and learning policies by every Member State; considers that national governments should set national goals in this field in a transparent manner, and should introduce appropriate legislation and relevant measures to ensure the achievement of European standards and, in particular, to ensure that tools adopted at EU level, such as the abovementioned recommendation on key competences for lifelong learning, the European Qualifications Framework and Euro-pass<sup>(1)</sup>, are implemented;

***Pre-primary education***

15. Stresses the need for increased resources for improving material and space conditions and for ongoing staff training to raise the quality of pre-primary education and provide increased resources for investment; universal access to high-quality pre-primary education is an effective way to open up access to lifelong learning for all children, but particularly children from deprived backgrounds and ethnic minorities;
16. Insists on the importance of children's developing basic skills, learning their mother tongue or the language of their country of residence, and acquiring reading and writing skills as early as possible;

<sup>(1)</sup> Decision No 2241/2004/EC of the European Parliament and of the Council of 15 December 2004 on a single Community framework for the transparency of qualifications and competences (Europass) (OJ L 390, 31.12.2004, p. 6).

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17. Believes that the learning of a second language should begin at this early stage, but young children's contact with languages must be organised through play and without pressure;
18. Calls on all Member States to make pre-primary education compulsory;

#### ***Primary and secondary education***

19. Emphasises the need to pay special attention to individuals who might otherwise drop out of education at a later stage; believes that special programmes and measures should be adopted to reduce the drop-out rate and that, in cases where dropping out is inevitable and continues to occur, the individuals concerned should be supported and given opportunities to be reintegrated into society and offered appropriate forms of education;
20. Stresses that primary and secondary education should equip children for autonomous, creative and innovative thinking and make them into media-critical and self-reflecting citizens;
21. Underlines the importance of the school curricula of each Member State, which should contain courses aimed at fostering and developing creativity and the innovative spirit in children;
22. Considers that curricula, and their content, must be continually updated in order to remain relevant, enhancing the important role of entrepreneurial skills and volunteering in order to support personal development, and stresses that all Member States must attach greater importance to teacher training and provide more resources for it if they are to make significant progress in achieving the Lisbon Strategy targets in the work programme 'Education and Training 2010' and promote lifelong learning within the European Union;
23. Is convinced that children should learn a second foreign language as early as possible;
24. Strongly encourages the learning of foreign languages from an early age and the inclusion of foreign-language teaching in all primary school curricula; stresses that, if this goal is to be achieved, sufficient resources must be made available to recruit and train foreign-language teachers;
25. Considers that the development of personal talents, specific capacities and natural abilities of students has to be a major goal at this stage of education; points out that these capacities may provide the basis for work and employment later on;
26. Stresses that special attention ought to be paid to those students who have not acquired or are not acquiring basic skills, as well as to exceptionally talented students so that they can maximise the development of their above-average abilities and talents;
27. Recommends that Member States substantially improve the quality of teachers' academic and professional qualifications, and their training and lifelong learning;
28. Strongly supports the promotion of continuous and coherent professional development for teachers throughout their careers; takes the view that all teachers should have regular opportunities to improve and update their skills and qualifications, as well as their pedagogical knowledge;
29. Proposes that Union citizenship programmes that will educate a new generation in the spirit of Union values in areas such as human rights, multiculturalism, tolerance, the environment, climate change should be introduced into curricula as soon as possible;

#### ***Vocational education and training (VET)***

30. Notes that both the quality and attractiveness of VET must be enhanced;



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31. Points out that VET ought to be better linked and more coherently integrated into both European and national economies in order to tailor better the educational process to the labour market;

32. Insists that mobility (not only geographical but also mobility between VET and higher education) of students and teachers be significantly enhanced;

### ***Higher education***

33. Considers that university curricula should be modernised in order to meet current and future socio-economic needs;

34. Recommends that higher education institutions should, as a matter of priority, develop interdisciplinary programmes on the borders between sciences in order to train specialists capable of solving the most complex problems facing the world today;

35. Emphasises that students' and pupils' interest in content and study programmes dealing with technology, natural sciences and environmental protection should be increased;

36. Calls on Member States effectively to boost partnerships between universities and businesses and, in addition, between universities and the many other national, regional and local stakeholders;

37. Notes that cooperation between European higher education institutions must be significantly enhanced and that, furthermore, qualifications should be made as easily transferable as possible;

38. Points out that the work of teachers and lecturers in higher education needs to be continually updated as do the programmes used, their contents and work methods;

39. Suggests that the European Institute for Innovation and Technology be linked to the Bologna Process and taken into account within the framework of the reform of European higher education;

40. Strongly recommends that Member States improve students' and teachers' mobility, including mobility between countries, programmes and disciplines; stresses, in this context, the importance of implementing the abovementioned European Quality Charter for Mobility in order to create a genuine European area for lifelong education and training and promote economic, social and regional cooperation;

### ***Lifelong learning***

41. Considers that employers should be encouraged consistently to arrange education and training for their employees, as well as being provided with incentives to enable low-skilled workers to take part in lifelong learning programmes;

42. Notes that long-term unemployed people from a disadvantaged social background, people with special needs, young people who have been in re-education institutions and former prisoners should especially be taken into consideration;

43. Stresses that women in particular should be encouraged to take part in training and further training, and special programmes to promote lifelong learning for women must also be provided and promoted in this context;

44. Stresses that low-skilled and older workers ought to be particularly encouraged and incentives should be provided for them to take part in lifelong learning programmes;



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45. Calls for adult education and lifelong learning programmes to take particular account of those groups of people who are most disadvantaged in the labour market, in particular young persons, women, especially those in rural situations, and the elderly;
46. Calls for account to be taken of the fact that training in parenting skills for women and men is crucial to people's welfare, to fighting poverty and to social cohesion; against this background, wishes for multi-purpose lifelong learning programmes and training of parenting skills trainers to be set up within the framework of education and learning;
47. Emphasises that knowledge and qualifications acquired through lifelong learning should be much broader and easily recognised, and to that end considers that the implementation of the abovementioned European Qualifications Framework and Europass as instruments for the promotion of lifelong learning must also be stepped up;
48. Considers that more funding for measures to promote mobility should be provided by both European and national authorities at all stages of lifelong learning;
49. Calls for the advantages of the abovementioned European Quality Charter for Mobility to be recognised and exploited and for them to be put into practice by the Member States, and for the Commission to carry out a review of implementation in the Member States;
50. Insists that as many social services and supporting facilities (e.g. childcare) as possible ought to be guaranteed to all students and workers with families;
51. Believes that voluntary services should be integrated and acknowledged when implementing the Education and Training 2010 work programme;
52. Is convinced that exchanges of views and mutual teaching and learning among different age groups should be enhanced;
53. Stresses that lifelong learning programmes must support entrepreneurship, enabling citizens to establish SMEs and to meet the needs of both society and the economy;
54. Draws attention to the fact that lifelong learning guidance services and information to learners of all age groups ought to be put into place in order to support the above objectives;

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

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## **Council's approach to revision of the OLAF Regulation**

P6\_TA(2008)0632

### **European Parliament resolution of 18 December 2008 on the Council's approach to revision of the OLAF Regulation**

(2010/C 45 E/07)

*The European Parliament,*

- having regard to the Interinstitutional Agreement on better law-making <sup>(1)</sup>,
- having regard to the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti Fraud Office (OLAF) (COM(2006)0244), and to its position of 20 November 2008 <sup>(2)</sup> on that proposal,

<sup>(1)</sup> OJ C 321, 31.12.2003, p. 1.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0553.

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- having regard to the Oral Question to the Council on the Council's approach to revision of the OLAF Regulation (O-0116/2008),
  
- having regard to Rule 108(5) of its Rules of Procedure,
  
- A. whereas, ten years after its establishment as an operational office to protect the financial interests of the Community in 1999, OLAF has gained valuable experience in the fight against fraud and corruption,
  
- B. whereas the regulatory framework of OLAF should be improved on the basis of the operational experience gained by it,
  
- C. whereas the two branches of the EU legislative authority should closely cooperate under the codecision procedure in order to adapt the regulatory framework of the fight against fraud to current needs,
  
- D. whereas it concluded its first reading concerning amendment of Regulation (EC) No 1073/1999 ('the OLAF Regulation') by a large majority on 20 November 2008,
  1. Considers that there is an urgent need to clarify the regulatory framework of OLAF in order to further improve the efficiency of anti-fraud investigations and to ensure the necessary independence of OLAF, taking full account of the experiences gained since OLAF was established to replace UCLAF in 1999;
  
  2. Reminds the Council that Parliament's abovementioned position of 20 November 2008 will lead to considerable improvement in the efficiency and quality of OLAF investigations through the strengthening of procedural guarantees, the role of the Supervisory Committee, the presumption of innocence, the right of defence of those under investigation and the rights of informers, the adoption of clear and transparent investigative rules and the improvement of cooperation with the competent national authorities and the EU institutions;
  
  3. Urges the French and Czech Presidencies to submit a calendar for negotiations with Parliament, based on Regulation (EC) No 1073/1999, thus confirming that they are making every possible effort to ensure the prompt adoption of a common position by the Council and to avoid any further unjustified delays;
  
  4. Considers that the Council's position in favour of a simple consolidation of the three existing legal bases for OLAF investigations is not a valid argument for not immediately opening negotiations on Regulation (EC) No 1073/1999, since simple consolidation will not improve the legal framework for OLAF's anti-fraud investigations and therefore constitutes a considerable loss of time in efforts to step up the fight against fraud; opts therefore for a recasting of EU anti-fraud legislation, including Regulation (EC) No 1073/1999, Regulation (Euratom, EC) No 2185/96 and Regulation (EC, Euratom) No 2988/1995, which should be based on a revised Regulation (EC) No 1073/1999;
  
  5. Instructs its President to forward this resolution to the Council, the competent committees of the parliaments of the Member States, the European Court of Auditors and the national audit bodies of the Member States.

## Evaluation and future development of Frontex and Eurosur

P6\_TA(2008)0633

### European Parliament resolution of 18 December 2008 on the evaluation and future development of the Frontex Agency and of the European Border Surveillance System (Eurosur) (2008/2157(INI))

(2010/C 45 E/08)

*The European Parliament,*

- having regard to the Communication from the Commission of 13 February 2008 entitled 'Report on the evaluation and future development of the Frontex Agency' (COM(2008)0067),
  - having regard to the Communication from the Commission of 13 February 2008 entitled 'Examining the creation of a European border surveillance system (Eurosur)' (COM(2008)0068),
  - having regard to the Communication from the Commission of 13 February 2008 entitled 'Preparing the next steps in border management in the European Union' (COM(2008)0069),
  - having regard to Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union <sup>(1)</sup>,
  - having regard to the European Pact on Immigration and Asylum adopted in Paris by the Member States on 7 July 2008 and endorsed at the European Council of 15 and 16 October 2008,
  - having regard to the Presidency Conclusions of the European Council of 15 and 16 December 2005 concerning the 'Global approach to migration: Priority actions focusing on Africa and the Mediterranean', published in the European Council Presidency conclusions of 14 and 15 December 2006,
  - having regard to Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams <sup>(2)</sup>,
  - having regard to its resolution of 26 September 2007 on policy priorities in the fight against illegal immigration of third-country nationals <sup>(3)</sup>,
  - having regard to Rule 45 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 Development (A6-0437/2008),
- A. whereas the fight against illegal immigration, and more specifically the integrated management of all the EU's borders, must form part of a global and harmonised approach to migratory phenomena, including the organisation of legal migration, the integration of legal immigrants and cooperation with countries of origin and transit,
- B. whereas the challenge of illegal immigration is a common European challenge and therefore requires a common European policy,

<sup>(1)</sup> OJ L 349, 25.11.2004, p. 1.

<sup>(2)</sup> OJ L 199, 31.7.2007, p. 30.

<sup>(3)</sup> OJ C 219 E, 28.8.2008, p. 223.

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- C. whereas these migratory phenomena will continue to exist as long as there are still development gaps between the different regions of the world, and whereas, with that in mind, the management of migratory flows should be organised in synergy with development and cooperation policies with third countries,
- D. whereas the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) is not a panacea for all the problems caused by irregular migration,
- E. whereas the surveillance of the Union's external borders is a key element in the fight against illegal immigration, which must be accompanied by additional enforcement policies seeking to eradicate such immigration at source, and by measures to combat illegal work, particularly the adoption of the directive providing for sanctions against employers of illegally staying third-country nationals (COM(2007)0249), and against people-trafficking networks, which are an element of organised crime,
- F. whereas there is a high mortality rate linked to illegal immigration and information campaigns need to be conducted with the countries of origin and transit on the risks and fatal consequences of this type of immigration,
- G. whereas, while border controls are the responsibility of each Member State as regards its own section of border, the migratory pressure on the Eastern and Southern borders of the Union requires a spirit of joint responsibility and compulsory solidarity to develop among the Member States, so as to facilitate the sharing of the material and human resources which can be mobilised to combat this phenomenon,
- H. whereas the long-term objective of all these instruments (Frontex, Eurosur, the Electronic System for Travel Authorisation (ESTA), the entry/exit registration system, fast-tracking) is the gradual establishment of a European integrated border management system,
- I. whereas the first quantifiable results from Frontex since it launched operations in October 2005 are available, and whereas there is a need to define a medium and long-term strategy, which has become essential at this stage of its development,
- J. whereas Frontex is a first-pillar Community body subject to the principles of full democratic scrutiny and transparency and, as such, has an obligation to uphold and promote the fundamental values of the Union,
- K. whereas the coordinating intelligence-driven operations carried out by Frontex are based on risk analyses and threat assessments made under the secrecy rule,
- L. whereas the Frontex development strategy should be taken as an opportunity to test the viability of the principle of 'compulsory solidarity' between Member States (already referred to in the context of Regulation (EC) No 863/2007 which coordinates the Union's rapid reaction capacities in case of emergency) in order to determine the appropriate way of ensuring that the material resources (listed in the Centralised Records of Available Technical Equipment (CRATE)) and human resources needed to enable Frontex to take effective action are made unconditionally available,
- M. whereas Parliament has consistently supported Frontex and has voted to increase its budget significantly in order to enable it to have sufficient financial resources to carry out its tasks,

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- N. whereas Frontex has embarked on maritime missions off the coast of the Southern Member States, the success of which has varied depending on the level of cooperation of the third countries from which the immigrants depart; whereas the Hera mission off the Canary Islands has been successful and has led to a significant reduction in the number of arrivals, whereas however the Nautilus mission in the central Mediterranean area has not been effective since the number of arrivals has increased rather than decreased,
- O. whereas immigration hotspots in the Southern maritime regions require continuous patrolling by maritime missions that are deployed on a permanent basis,
- P. whereas any action taken by Frontex should in any event comply with international law standards, in particular those relating to maritime law as well as to human rights, human dignity and refugees, particularly the right of asylum and the principle of *non-refoulement*,
- Q. whereas all Frontex's actions should take into account the need to take the necessary precautions, and use all necessary means, to respect the most vulnerable, women (and in particular pregnant women), children (especially unaccompanied minors), older people, and people with disabilities or serious illnesses,
- R. whereas the humanitarian dimension of the action of Frontex must be enhanced by ensuring maximum legal certainty, in the context both of the rescue operations which it has to carry out and of joint returns operations to which it has to contribute,
- S. whereas, in the light of their success, operations for the training of the specialist staff involved in the functioning of Frontex deserve to be continued, and should in particular be extended to staff from third countries who have to cooperate with Frontex on a daily basis in order to train them in sea rescue operations and the recovery of bodies in the event of shipwreck,
- T. whereas border controls do not just focus on unauthorised border crossings, but also on other aspects of cross-border crime, such as trafficking in human beings, drugs smuggling or illicit trade in arms, thus helping to increase internal security as a whole,
- U. whereas Frontex's action cannot be effective without an EU border management policy that incorporates the proposed new EU border control systems, such as the Electronic System for Travel Authorisation (ESTA), the entry/exit registration system, or fast-tracking,
1. Calls on the Member States to consider a global approach to the challenge of migration, seeking with equal vigour to achieve progress, not only in stepping up checks at the Union's borders, in combating illegal immigration and returning illegal immigrants to their home countries and in combating illegal work and trafficking in human beings, but also in organising legal immigration and measures to facilitate the integration of legal immigrants, in promoting a global partnership with third countries to promote a positive relationship between migration and development, and in establishing a consistent human rights policy at EU level;
  2. Considers Frontex as an essential instrument in the Union's global strategy on immigration and calls on the Commission to present proposals to review its mandate in order to strengthen its role and make it more effective;

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3. Stresses the importance of being aware of the absolute necessity for Frontex to be able to count on the availability of the resources placed at its disposal by the Member States, notably through CRATE, both for its coordination of the individual joint operations and for its permanent missions; regrets that some Member States have not so far demonstrated sufficient willingness to provide the necessary assets to Frontex and calls on them to do so;
4. Welcomes the adoption of the European Immigration and Asylum Pact by the European Council and its calls for the strengthening of Frontex;
5. Stresses that Frontex should integrate measures to control trafficking in human beings into its work, particularly at the Union's external borders;
6. Calls on the Member States, to that end, to formalise as soon as possible a system of 'compulsory and irrevocable solidarity' subject to feasibility and the current specific needs of each participating country, to enable Frontex, in preparing and completing its missions, to remove the uncertainty as to the extent of the resources it can count on in real time;
7. Calls for the establishment of permanent and uninterrupted operational joint surveillance patrols all year round in all high-risk areas, particularly at sea borders where there is a serious risk of loss of life, the right to life being the first inviolable fundamental right;
8. Stresses the importance of harmonising EC law with other international law applicable in this field, so that the Union can contribute effectively to the efforts required in order to help refugees in distress;
9. Calls on the Member States to commit themselves as soon as possible to giving concrete expression to this solidarity principle, particularly by increasing the material resources it makes available to Frontex, especially in terms of surface assets, and by guaranteeing that they will be unconditionally available in practice in a timely manner;
10. Calls on Frontex to send a report to Parliament and the Council, detailing in particular the actual use and real availability of the materials listed in the CRATE database, highlighting any difficulties encountered and providing full information on which Member States are providing assets and which ones are not;
11. Calls on the Member States, in the event of persistent insufficient availability of resources, to take a rapid decision to alter substantially the scale of Frontex's budget to enable it to carry out its missions and, possibly, to examine the legal aspects of the future renting and/or purchase of materials for that purpose;
12. Recalls that Parliament, as an arm of the budgetary authority, has already increased Frontex's budget since its inception and will ensure that its budget is correctly implemented and adapted to changes in its functions;
13. Points out that EU cooperation with third countries must be based on international obligations concerning the protection of refugees and asylum seekers and, in particular, with the provisions of the Geneva Convention Relating to the Status of Refugees (1951);
14. Welcomes the major cooperation efforts that have been achieved by almost all the third countries with which Frontex has been called on to cooperate on a day-to-day basis, and which have led to very positive results, for example in the Canary Islands; regrets, however, that cooperation on immigration is still lacking in other countries, such as Turkey and Libya;

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15. Urges the Union to include, as part of its negotiations with third countries, the need for greater cooperation by third countries in the field of immigration, and calls on those third countries whose cooperation has been insufficient — or non-existent — to make every effort to facilitate Frontex's work, particularly by ensuring that their enforcement services cooperate more effectively;

16. Calls on the Commission and on Member States to redouble their efforts to achieve a higher level of cooperation from third countries, notably through the negotiation of readmission agreements; considers that immigration should be an intrinsic part of any negotiations of agreements with third countries which are countries of origin or of transit;

17. Stresses the need for Frontex, in cooperation with third countries, to take due account of the opinions of those Member States which have had the most experience in tackling illegal immigration issues relating to the countries in question; participation by a third country in any joint Member State operation coordinated by Frontex must be subject to the approval of the Member State hosting the operation;

18. Calls for the mandate of Frontex to explicitly include an obligation to meet international human rights standards and a duty towards asylum seekers in rescue operations on the high seas, and for cooperation with the United Nations High Commissioner for Refugees (UNHCR) and other relevant non-governmental organisations to be formalised within the mandate;

19. Is concerned that third-country nationals may lack adequate means to monitor whether personal information on them gathered in the planned 'system of systems' of the EU is handled in accordance with the principles of data protection law applicable in the Union; calls on the Commission to clarify to what extent personal data will be made available to third-country administrations;

20. Calls for Frontex's competences to be extended so that it can be encouraged to carry out projects and operations in third countries, inter alia in order to strengthen the effectiveness of working agreements and identify the needs for capacity building with regard to border management in third countries;

21. Calls on Frontex to strengthen and take up its key role in supporting joint return operations and all the aspects involved in these procedures and, in a spirit of solidarity, calls on Member States to involve Frontex when planning and organising joint return flights and identifying the need for joint returns;

22. Calls on the Member States to permit Frontex's mandate to be reviewed so as to eliminate legal vacuums which could hamper its action, setting out in particular the precise legal conditions for its sea rescue operations and for its contribution to return operations, and including the option for third countries to use its equipment, in particular by means of pilot projects from which they would benefit;

23. Calls on the Commission to fully evaluate Frontex's activities with regard to their impact on fundamental freedoms and rights, including the 'responsibility to protect';

24. Calls for training of Frontex staff regarding the various gender dimensions that arise in the context of its work;

25. Considers that such a broadening of the tasks of Frontex, and its contribution as part of the daily battle against illegal immigration, could justify the structural development of its logistical and administrative capacities, while complying with the proportionality principle;



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26. Considers in particular that, while the rhythm of work and the resources employed do not yet justify creating a large number of decentralised agencies, consideration might be given at this stage to setting up two distinct external offices — one coordinating activities at land borders, the other for sea operations —, bearing in mind that land migratory routes on the Eastern border will increasingly represent a major challenge in the future and should deserve increased attention and means;
27. Calls on the Commission and the Member States to consider the feasibility of an EU border guard system;
28. Stresses the need to carry out training for staff deployed in Frontex operations — particularly training in maritime law, asylum law and fundamental rights — including, once its mandate has been widened, for staff from the third countries involved; to that end, encourages Frontex to cooperate with other institutions such as the International Organization for Migration, the European Union Agency for Fundamental Rights and the UNHCR, the UN body responsible for the Law of the Sea and NGOs as well as other associations with experience and know-how in these areas;
29. Calls on the Commission to organise information campaigns on best practice in the Member States on the risks of illegal immigration;
30. Welcomes the current discussions in the Council aimed at setting up the Eurosur border surveillance system with a view to optimising the exploitation of all surveillance systems, essentially by extending their existing cover, which currently reaches only part of the areas where operations need to be carried out;
31. Urges, therefore, that work begin without delay on the upgrading of the national surveillance systems and their interconnection as a network and that, in the interest of coherence, Frontex be given the task of assembling the available tools, and in particular of managing the secure web-based Information and Coordination Network for Member States' Migration Management Services (Iconet) <sup>(1)</sup> and of resuming the work of the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (Cirefi) as mentioned in the Council Conclusions of 30 November 1994;
32. Calls for Frontex to further its cooperation on risk analysis with Europol and other European agencies, as well as with other international bodies and third country border control authorities, especially in the context of breaking international trafficking rings and bringing to justice persons involved in trafficking in illegal immigrants; also considers it essential that there be a mechanism enabling Frontex to transfer key intelligence to those who can make best use of it;
33. Calls on the Member States to ensure that the concrete needs of the border control services are specifically taken into account in research activities;
34. Considers the objective of truly integrated EU border management as legitimate and agrees that is important to continuously develop and strengthen the EU's common policy on border management; stresses, however, the need for an evaluation and assessment of existing systems and those under preparation before moving ahead with the new building blocks as proposed by the Commission in its abovementioned Communication entitled 'Preparing the next steps in border management in the European Union'; insists furthermore on a comprehensive master plan, setting out the overall architecture of the EU's border strategy as well as the details for how all related programmes and schemes are supposed to collectively function and how the relationship among related programmes can be optimised;

<sup>(1)</sup> Council Decision 2005/267/EC of 16 March 2005 (OJ L 83, 1.4.2005, p. 48).

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35. Calls on Frontex to take the initiative of creating a common information-sharing environment between the competent national authorities in order to optimise the collection, analysis and dissemination of sensitive data; calls on the European Security Research and Innovation Forum (ESRIF) to make its contribution to achieving that objective, giving priority in its work to common applications for the improvement of, and innovation in, the field of surveillance tools;

36. Calls for the strengthening of the democratic control of Frontex by Parliament, and calls on Frontex to inform Parliament of negotiations to conclude agreements signed with third countries, to present tactical assessments focused on particular border regions, and to publish evaluation reports on joint operations and other coordinated missions, risk analyses, feasibility studies and statistics on migration trends; points out that democratic oversight of Frontex's activities would, among other things, enhance its legitimacy; nevertheless the information published in those reports should not contain confidential data that may affect ongoing operations;

37. Calls on the Commission to clarify which range of logistical support on border surveillance is intended for neighbouring third countries as mentioned under step 3 of Phase 1 of Eurosur;

38. Instructs its President to forward this resolution to the Council and the Commission, the governments and parliaments of the Member States, the Office of the UN High Commissioner for Refugees and the International Organization for Migration.

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## Impact of counterfeiting on international trade

P6\_TA(2008)0634

### European Parliament resolution of 18 December 2008 on the impact of counterfeiting on international trade (2008/2133(INI))

(2010/C 45 E/09)

*The European Parliament,*

- having regard to the 2007 report by the Organisation for Economic Cooperation and Development (OECD) entitled 'The economic impact of counterfeiting and piracy',
- having regard to the Communication from the Commission of 10 November 2005 entitled 'Implementing the Community Lisbon programme — a modern SME policy for growth and employment' (COM(2005)0551),
- having regard to the Communication from the Commission of 4 October 2006 entitled 'Global Europe: competing in the world — A Contribution to the EU's Growth and Jobs Strategy' (COM(2006)0567),
- having regard to the Communication from the Commission of 18 April 2007 entitled 'Global Europe: a stronger partnership to deliver market access for European exporters' (COM(2007)0183),
- having regard to its resolution of 19 February 2008 on the EU's Strategy to deliver market access for European companies <sup>(1)</sup>,
- having regard to its resolution of 22 May 2007 on Global Europe — external aspects of competitiveness <sup>(2)</sup>,

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<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0053.

<sup>(2)</sup> OJ C 102 E, 24.4.2008, p. 128.

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- having regard to its resolution of 5 June 2008 on implementing trade policy through efficient import and export rules and procedures <sup>(1)</sup>,
- having regard to its resolution of 1 June 2006 on EU-US transatlantic economic relations <sup>(2)</sup>,
- having regard to its resolution of 12 October 2006 on economic and trade relations between the EU and Mercosur with a view to the conclusion of an Interregional Association Agreement <sup>(3)</sup>,
- having regard to its resolution of 13 December 2007 on the trade and economic relations with Korea <sup>(4)</sup>,
- having regard to its resolution of 8 May 2008 on trade and economic relations with the Association of South East Asian Nations (ASEAN) <sup>(5)</sup>,
- having regard to its resolution of 13 October 2005 on prospects for trade relations between the EU and China <sup>(6)</sup>,
- having regard to the Communication from the Commission of 24 October 2006 entitled 'EU — China: Closer partners, growing responsibilities' (COM(2006)0631) and the working document accompanying it, entitled 'Closer Partners, Growing Responsibilities — a policy paper on EU-China trade and investment: Competition and Partnership' (COM(2006)0632),
- having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization <sup>(7)</sup> (Trade Barriers Regulation),
- having regard to the Communication from the Commission of 16 July 2008 entitled 'An Industrial Property Rights Strategy for Europe' (COM(2008)0465),
- having regard to the Communication from the Commission of 21 February 2001 entitled 'Programme for action: Accelerated action on HIV/AIDS, malaria and tuberculosis in the context of poverty reduction' (COM(2001)0096),
- having regard to the Communication from the Commission of 26 February 2003 entitled 'Update on the EC Programme for Action — Accelerated action on HIV/AIDS, malaria and tuberculosis in the context of poverty reduction — Outstanding policy issues and future challenges' (COM(2003)0093),
- having regard to the Communication from the Commission of 26 October 2004 entitled 'A Coherent European Policy Framework for External Action to Confront HIV/AIDS, Malaria and Tuberculosis' (COM(2004)0726),
- having regard to Regulation (EC) No 816/2006 of the European Parliament and of the Council of 17 May 2006 on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems <sup>(8)</sup>,
- having regard to Council Regulation (EC) No 980/2005 of 27 June 2005 applying a scheme of generalised tariff preferences <sup>(9)</sup> (GSP Regulation),
- having regard to the report of the Commission of 19 May 2008 on community customs activities on counterfeit and piracy — Results at the European border 2007,

<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0247.

<sup>(2)</sup> OJ C 298 E, 8.12.2006, p. 235.

<sup>(3)</sup> OJ C 308 E, 16.12.2006, p. 182.

<sup>(4)</sup> Texts Adopted, P6\_TA(2007)0629.

<sup>(5)</sup> Texts Adopted, P6\_TA(2008)0195.

<sup>(6)</sup> OJ C 233 E, 28.9.2006, p. 103.

<sup>(7)</sup> OJ L 349, 31.12.1994, p. 71.

<sup>(8)</sup> OJ L 157, 9.6.2006, p. 1.

<sup>(9)</sup> OJ L 169, 30.6.2005, p. 1.

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- having regard to Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) <sup>(1)</sup>,
  - having regard to the Communication from the Commission of 1 April 2008 entitled ‘Strategy for the evolution of the Customs Union’ (COM(2008)0169),
  - having regard to the amended proposal for a directive of the European Parliament and of the Council on criminal measures aimed at ensuring the enforcement of intellectual property rights of 26 April 2006 (COM(2006)0168),
  - having regard to its resolution of 19 June 2008 on the fortieth anniversary of the Customs Union <sup>(2)</sup>,
  - having regard to Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights <sup>(3)</sup>,
  - having regard to Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights <sup>(4)</sup>,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on International Trade and the opinions of the Committee on the Internal Market and Consumer Protection and the Committee on Legal Affairs (A6-0447/2008),
- A. whereas it is necessary to combat counterfeiting effectively in order to achieve the objectives of the new Lisbon agenda, with regard to both its internal and external aspects, as stated by the Commission in its abovementioned Communication of 18 April 2007,
- B. whereas the European Union is the world’s second importer of goods and services and the extreme openness and transparency of its single market offers huge opportunities but also poses serious risks of an invasion of counterfeit products,
- C. whereas the EU economy has specialised in high value added, high-quality products, often protected by trademarks, patents or geographic indications, which, by their very nature, are among the most likely to be counterfeited,
- D. whereas serious infringements of intellectual property rights (IPR) are non-tariff trade barriers which make access to third-country markets more difficult and costly, especially for small and medium-sized enterprises (SMEs) of limited resources and means,
- E. whereas European competitiveness is traditionally linked to the quality of the workforce and, increasingly, especially for SMEs, to research, development, innovation and the relevant IPRs,
- F. whereas IPRs, including geographical indications and denominations of origin, are not always protected effectively by the European Union’s trading partners,

<sup>(1)</sup> OJ L 145, 4.6.2008, p. 1.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0305.

<sup>(3)</sup> OJ L 157, 30.4.2004, p. 45.

<sup>(4)</sup> OJ L 196, 2.8.2003, p. 7.

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- G. whereas there is a large and increasing number of types of counterfeit products, no longer confined to luxury and high-quality goods but also including commonly used products, such as toys, medicines, cosmetics and food,
- H. whereas a recent survey by the OECD estimated that international trade relating to IPR infringements amounted to as much as EUR 150 billion in 2005, to which should be added the value of national transactions and counterfeit and pirated products that are distributed through the Internet,
- I. whereas in 2007 the amount of goods seized by the customs authorities of the European Union that were in breach of IPRs increased by 17 % against the previous year, with an increase of 264 % for cosmetics and personal hygiene products, 98 % for toys and 51 % for medicines,
- J. whereas counterfeiting and piracy have alarming consequences for the EU economy and for the Community social and economic system as a whole, reducing incentives to innovate, curbing foreign direct investment, eliminating skilled jobs from industry and laying the groundwork for the development of a hidden economic system, running parallel to the legal one and controlled by organised crime,
- K. whereas the abovementioned 2007 report by the OECD and the upcoming Phase II report by the OECD on 'Piracy of digital content', emphasise the global scale, rapid growth and detrimental economic impact of digital piracy on rights holders,
- L. whereas counterfeiting causes serious damage to the environment, both because of the inadequacy of the quality standards of counterfeit goods and the high costs of disposing of and destroying them,
- M. whereas access to procedures for combating counterfeit goods is complicated, costly and time-consuming, especially for SMEs,
- N. whereas the single market ensures that European consumers can choose freely, transparently and safely which products to buy, and counterfeiting, unless appropriately curbed, can not only undermine the principle of confidence on which the entire system is based but can also pose serious risks to safety, health, and in extreme cases, the very lives of consumers and it is thus necessary to better protect their rights,
- O. whereas initiatives to raise awareness among consumers about risks to their health and safety and, in general, about the consequences of buying counterfeit goods are an effective tool in combating counterfeiting,
- P. whereas tougher action should be taken against counterfeiters of products that have a direct impact on public health,
- Q. whereas the ongoing differences between the laws of the Member States on IPRs, particularly with regard to the criminal measures aimed at ensuring that they are respected, weaken the European Union's negotiating position and may undermine the efforts hitherto made to combat counterfeiting more effectively internationally,
- R. whereas the simplified procedure laid down in Article 11 of Regulation (EC) No 1383/2003 in Member States such as Portugal, Greece, Hungary, the Netherlands and Lithuania which allows for the destruction of large quantities of counterfeit goods in a short period of time and with relatively low costs, is very successful,

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- S. whereas the 2006 G8 St Petersburg summit recognised the global nature of the counterfeiting and piracy problem and stressed the need to improve cooperation between G8 countries, third countries and the competent international institutions,
- T. whereas the subsequent G8 summit in Heiligendamm set up an IPR Task Force to combat counterfeiting and piracy as part of the 'Heiligendamm Process' <sup>(1)</sup>,
- U. whereas in 2007 the European Union, Japan and the United States announced the opening of negotiations with a view to a new multilateral agreement designed to strengthen the enforcement of IPRs and combat counterfeiting and piracy (Anti-Counterfeiting Trade Agreement — ACTA),
- V. whereas a favourable conclusion of the ACTA Agreement will make it possible to establish common standards for civil and administrative protection, improved inter-institutional cooperation and cooperation with the private sector, and the incorporation of technical assistance, with a view to making respect for IPRs simpler, safer and less costly,
- W. whereas a distinction needs to be drawn between generic medicines, the distribution of and trading in which should be encouraged, both in the EU and in developing countries, and counterfeit medicines, which, on the one hand, are dangerous for public health and, on the other, cause substantial economic losses to companies in the sector and may delay the development of new discoveries without benefiting the populations of the least developed countries; whereas, moreover, counterfeit medicines account for only part of illegal medicines,
- X. whereas, as regards products having a direct impact on public health, Internet and parallel trade distribution networks contribute greatly to the spread of counterfeit products that are dangerous to public health,
- Y. whereas the European Union is pursuing ongoing efforts to harmonise IPR enforcement measures, notably with a proposal for a European Parliament and Council directive on criminal measures aimed at ensuring the enforcement of intellectual property rights of 12 July 2005 (COM(2005)0276), and this process should not be circumvented by trade negotiations which are outside the scope of the normal EU decision-making processes,
- Z. whereas it is also crucial to ensure that the development of IPR enforcement measures is accomplished in a manner that does not impede innovation or competition, undermine IPR limitations and exceptions or personal data, restrict the free flow of information, or unduly burden legitimate trade,
- AA. whereas the European Union has demonstrated its commitment to effective and balanced enforcement of IPRs by adopting a set of directives in this field following detailed scrutiny by the Parliament and the Council over many years,
- AB. whereas it is fundamentally important, when considering legal measures, to recognise the substantive difference between intellectual and material property rights, and accordingly between infringement of rights and theft,
- AC. whereas all intellectual property infringements are damaging to trade and business but commercial scale infringements have additional and widespread effects,
- AD. whereas, in the case of patents on pharmaceutical products, whilst infringements of patents are settled case-by-case on the basis of substantive arguments made in civil proceedings on the grounds of a patent infringement, infringements of copyright and trademarks constitute intentional offences,

<sup>(1)</sup> Summit Declaration, Growth and Responsibility in the World Economy, 7 June 2007, Summit G8 Heiligendamm.

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### *The multilateral framework*

1. Takes the view that the World Trade Organisation (WTO) system aims to ensure that IPRs are more widely recognised internationally, providing for an agreed level of standards of protection through the Trade-Related Aspects of Intellectual Property Rights (TRIPS), dialogue between Member States and with other institutions such as the World Intellectual Property Organisation (WIPO) and the World Customs Organisation (WCO), as well as a dispute prevention and settlement mechanism;
2. Calls on the Commission to persevere in the TRIPS Council to ensure that the minimum rules incorporated into national law are accompanied by effective enforcement measures and measures to prevent infringements; takes the view that the flexibilities provided for in the TRIPS agreement and confirmed in the Doha Declaration on the TRIPS agreement and public health, should be maintained insofar as they are aimed at ensuring a fair balance between the interests of rights' holders and those of end users;
3. Calls on the Commission to bring forward proposals to the Parliament to ensure that export, transit and transshipment operations are appropriately dealt with in the TRIPS agreement and to examine the case for further changes in the agreement, in order to create a fair balance between the interests of owners and those of potential users of IPRs, particularly bearing in mind the level of development of the parties involved and distinguishing between countries which produce counterfeit and pirated products, those which use them, and those through which the products transit;
4. Welcomes the progress achieved by the European Union in technical assistance programmes which have helped to strengthen IPRs in emerging and developing countries, and stresses the importance of continuing with such programmes, in view of the benefits which they can achieve in terms of sustainable economic development and their important role in combating counterfeiting;
5. Calls on the Commission and the Member States to develop specific measures, backed up by appropriate financial coverage, in favour of more widespread consumer education in Europe and also in developing countries, in order to avert the risks relating to potentially dangerous counterfeit products;
6. Supports the solutions put forward at the Twelfth session of the United Nations Conference on Trade and Development, within the Creative Africa Initiative, which consider the creative industries to be an essential factor in the growth of underdeveloped countries, and reaffirm the vital role of IP for the sustainable development of such regions;
7. Calls on the Commission and the Member States to propose and support the drafting of a protocol on counterfeiting, in addition to the United Nations Convention against Transnational Organised Crime (Palermo Convention);
8. Points out that in several emerging economies, the production of counterfeit and pirated goods has reached alarming levels; whilst welcoming the cooperation initiatives hitherto implemented, is of the view that special measures are required in order to strengthen coordination between customs, judicial and police authorities with the countries concerned and to encourage the harmonisation of the laws of these countries with those of the European Union;
9. Calls on the Commission to introduce, along the same lines as Article 3(2) <sup>(1)</sup> of the Directive 2004/48/EC, safeguards at international level in order to guarantee that any extra patent enforcement measures are not used to hinder legitimate trade;

<sup>(1)</sup> Article 3(2) states that *'Those measures, procedures and remedies shall also be effective, proportionate and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.'*



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10. Encourages the Commission and the Member States to strengthen their cooperation with Euro-Mediterranean partner countries within the Euromed Market Programme and promote in the Euro-Mediterranean region a common approach to legislation, procedures and implementation with regard to customs cooperation and action to combat counterfeiting and piracy in order to facilitate trade between Euro-Mediterranean partner countries;

11. Is convinced that in order to step up the fight against counterfeiting, more regular and targeted use should also be made of the WTO's Dispute Settlement Body, which, together with the Community and national courts, can provide better protection of European industry and consumers by consolidating case-law which enhances the substance and scope of the TRIPS agreement;

12. Reaffirms that any harmonisation of substantive law must respect national sovereignty and international treaties in this area;

#### ***ACTA and other bilateral and regional EU initiatives***

13. Calls on the Commission to continue its fight against counterfeiting and piracy, in parallel with the multilateral negotiations, also by means of bilateral, regional and multilateral agreements with a view to approximating and enforcing laws, and by providing for the establishment of efficient dispute settlement systems and penalties in case of failure to comply with the obligations underwritten;

14. Calls on the Commission and the Member States to negotiate ACTA under conditions of the utmost transparency towards EU citizens, especially with regard to the definitions of the terms 'counterfeiting' and 'piracy' and the criminal sanction measures foreseen; takes the view that the social impact of the agreement as well as the impact on civil liberties must be assessed; supports the establishment of a task force to examine the implementation of the agreement, by promoting this subject in dialogue between the European Union and third countries and as part of cooperation measures with those countries;

15. Considers that it is not yet certain whether the EC Treaty provides a legal basis for Community measures prescribing the type and level of criminal penalties and that, as a consequence, the Commission may not have competence to negotiate on behalf of the Community an international agreement which specifies the nature and level of criminal-law measures to be taken against trademark and copyright violators;

16. Stresses that in all intellectual property enforcement agreements foreseen, personal use, that is not for profit, must be distinguished from the fraudulent and intentional marketing of counterfeit and pirated goods;

17. Calls on the Commission to negotiate with third countries on the establishment of task forces to combat counterfeiting;

18. Asks the Commission to ensure that ACTA will not grant public authorities access to private computers and other electronic devices;

19. Welcomes the growing interest shown by a number of WTO countries in the ACTA, believes that efforts should be made to include emerging economies such as China, India, Brazil as well as regional trade blocs such as Mercosur, CARICOM and ASEAN, in order for them to take part in the negotiations of the agreement, inviting them from now to commit themselves to guarantee IPRs' respect in their territories;

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20. Calls on the Commission to avoid the danger of contradictions and overlap between the ACTA, the TRIPS agreement and other international IPR treaties;

21. Calls on the Commission to ensure that ACTA only concentrates on IPR enforcement measures and not on substantive IPR issues such as the scope of protection, limitations and exceptions, secondary liability or liability of intermediaries;

22. Calls on the Commission to ensure that ACTA is not used as a vehicle for modifying the existing European IPR enforcement framework, but fully reflects the balance established by the different directives adopted by the European Parliament and Council in this field, and notably the provision of Recital 2 of the Directive 2004/48/EC;

23. Calls on the Commission and the Council to clarify the role and competence of the Article 133 Committee and the other committees involved in the negotiation of the ACTA;

24. Believes that the Commission should take into account certain strong criticism of ACTA in its ongoing negotiations, namely that it could allow trademark and copyright holders to intrude on the privacy of alleged infringers without due legal process, that it could further criminalise non commercial copyright and trademark infringements, that it could reinforce Digital Rights Management technologies at the cost of 'fair use' rights, that it could establish a dispute settlement procedure outside existing WTO structures and lastly that it could force all signatories to cover the cost of enforcement of copyright and trademark infringements;

25. In this context, calls on the Commission to ensure a continuous and transparent public consultation process, to support the benefits of such a process with all the negotiating countries, and to ensure that the Parliament is regularly and thoroughly informed about the state of play of the negotiations;

26. Recalls that the EC Treaty includes derogations where the negotiation and conclusion of agreements in the field of commercial aspects of intellectual property relates to trade in cultural and audiovisual services; points out that, in such instances, the negotiation and conclusion of agreements falls within the shared competence of the Community and its Member States; further points out that, in addition to a Community decision taken in accordance with the relevant provisions of the EC Treaty, the negotiation of such agreements requires the common accord of the Member States and agreements negotiated in this way must be concluded jointly by the Community and the Member States;

27. Reminds the Commission of, within the framework of ACTA negotiations, Article 8 of the Charter of Fundamental Rights of the European Union, which concerns the protection of personal data, 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 on the free movement of such data <sup>(1)</sup>;

28. Takes the view that the public interest in disclosure of ACTA preparatory drafts, including progress reports, and of the Commission's negotiating mandate should not be overridden by Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents <sup>(2)</sup>, and urges the Council to enforce Article 255 of the EC Treaty in such a way as to ensure the widest possible access to documents, provided that the necessary security measures are taken as required by data-protection law;

29. Notes with regret that IPR protection in Turkey does not yet meet EU standards and therefore needs to be reviewed; points out that Turkey will only become a credible candidate for accession when it is in a position to take on the Community acquis and guarantee full respect for IPRs within its boundaries;

<sup>(1)</sup> OJ L 281, 23.11.1995, p. 31.

<sup>(2)</sup> OJ L 145, 31.5.2001, p. 43.

***EU-China relations***

30. Calls on the Chinese authorities to step up their efforts and take legal action with renewed energy against those who violate IPRs and, in this connection, welcomes the change of attitude on the part of judicial bodies which recently recognised the IPR entitlements of EU citizens in China and condemned local companies which had infringed those rights;

31. Reaffirms the need to step up cooperation with the Chinese customs authorities and to guarantee assistance and support from corresponding European administrative services;

32. Stresses the fact that 60 % of the counterfeit goods seized by the customs authorities of the EU are produced in China; asks the Commission, together with the Chinese authorities, to present an action plan to fight counterfeiting as soon as possible;

***External support measures in the fight against counterfeiting***

33. Recommends that an effective monitoring mechanism be introduced with regard to possible infringements of IPRs that are protected under the various agreements, coupled with trade incentive tools as part of a specific commitment to the fight against counterfeiting and piracy;

34. Points out that the GSP Regulation also provides for the possibility of temporarily suspending preferences for those partners which implement unfair trading practices; takes the view that in the event of particularly serious violations of intellectual property, such as cases constituting a serious threat to safety and public health, the use of such a deterrent should be taken into due consideration by the Commission;

35. Is of the view that the Trade Barriers Regulation can provide important assistance to European companies suffering from problems of third-country market access in relation to intellectual property infringements and calls on the Commission to encourage and facilitate its use, especially by SMEs;

36. Takes the view that improved cooperation between the European Union and the Member States in third countries can guarantee more effective exchanges of information, better use of available resources and a greater impact on measures to combat counterfeiting as regards both political-diplomatic action and more strictly technical aspects;

37. Calls on the Commission to make the 'market access team' in the EU delegations a tangible point of reference for Community companies (in particular SMEs) complaining of intellectual property infringements;

***Regulatory and organisational issues***

38. Notes the Commission's commitment to consolidating IPRs in the European Union and calls for greater commitment in the combating of counterfeiting and the harmonisation of existing laws in the Member States;

39. Notes that there is no harmonised definition in the European Union of 'counterfeiting' and 'piracy' and that the Member States' definitions differ;

40. Notes the worrying spread of counterfeiting and piracy, in particular, in a globalised economy, and its serious implications for the competitiveness of the European Union and its businesses, creators and consumers; calls therefore on the Member States to provide consumers with sufficient information on the dangers of counterfeiting and piracy, in particular the considerable health and safety risks which counterfeit products, including medicines, pose to consumers;

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41. Asks the Commission to investigate specifically the health and safety risks related to counterfeiting in order to assess whether further measures are needed;
42. Calls on the Commission to make all efforts to agree common minimum sanctions for serious infringements of IPRs;
43. Believes that harmonisation of existing national anti-counterfeiting legislation is necessary in order to ensure effective and consistent application of the future ACTA agreement;
44. Stresses the need for improved coordination within the Commission between departments dealing with combating counterfeiting and for better dissemination of the Community initiatives the Commission adopts in this regard, given that the fragmentation of sanction arrangements is detrimental to the internal market and weakens the European Union in its trade negotiations; stresses also that the private and public sectors should extend their cooperation to ensure that measures to combat counterfeiting are more active, dynamic and effective;
45. Stresses the need to develop appropriate ongoing training courses for customs staff, magistrates and other professionals concerned and to encourage the Member States to set up specialised anti-counterfeiting teams;
46. Notes the acknowledgement by the Commission, in its July 2007 White Paper on Sport, that the economic viability of exploiting sports rights is dependent on the availability of effective means of protecting against the activities of intellectual property infringers at national and international levels and calls for the owners of sports' rights to be taken into account in any action to combat counterfeiting and digital piracy;
47. Recommends further improvement and better coordination of customs procedures in the European Union in order substantially to restrict access of counterfeit and pirated products to the single market; calls also on the Commission to submit a proposal to Parliament and the Council to provide the European Union and its Member States with EU-level statistical data on counterfeiting;
48. Calls on the Commission to take account of the specific aspects of the use of the Internet as a channel for distributing counterfeit products and to measure its impact on the Member States' economies by developing statistical tools that can facilitate a coordinated response;
49. Asks the Commission to set up or facilitate a helpdesk for SMEs, preferably integrated with other helpdesk facilities, to give technical assistance to SMEs on the procedures for dealing with counterfeit goods;
50. Considers it vital that European industry should not withhold its support and assistance for the initiatives to be taken by the European institutions; considers it especially vital that SMEs are put in a position to be able to defend their rights effectively, especially with regard to IPR infringements in third countries;
51. Asks the Commission and the Member States to encourage initiatives to raise consumer awareness of the consequences of buying counterfeit goods; stresses the important role the business sector has to play in such initiatives;
52. Considers that, for traceability purposes, steps should be taken to encourage measures taken by industry to use modern technologies to distinguish more effectively between original products and counterfeit products, and calls on the Commission to take the necessary steps to promote and establish such constructive steps on a permanent basis;

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53. Urges the Member States which have not yet implemented Directive 2004/48/EC to do so without delay;
54. Draws attention to the need to respect the four fundamental freedoms of the internal market and to improve its operation;
55. Calls on the Commission to collect data from the Member States on the damage to consumers' health which has occurred as a result of counterfeit products and on consumer complaints about counterfeit products; calls on the Commission to ensure that these data are accessible to the authorities in all Member States;
56. Insists in this connection on the need to mobilise all operators concerned to strengthen the effectiveness of instruments for combating counterfeiting and piracy in the internal market;
57. Calls on the Member States to strengthen their customs teams on their national territories and put in place a service, identifiable to third parties (including Member States, third countries, Community institutions, businesses and individuals) responsible for combating counterfeiting and providing information on this problem;
58. Reminds the Member States of the importance of having a Community patent and a jurisdictional system for patents as a way of ensuring compliance with users' intellectual property rights throughout the European Union, thus permitting innovative businesses to protect their inventions as much as possible and to profit from them to a greater extent;
59. Calls on the Member States to step up awareness-raising and information in the fight against counterfeiting and piracy in tourist areas and in trade fairs and exhibitions;
60. Draws attention to the importance of harmonising IPRs and existing national and Community patents in combating counterfeiting, and calls on the Member States to encourage companies to protect their services and products by registering trademarks, designs, patents and so on in order to be able to better enforce their IPRs;
61. Calls on the Commission to develop a scoreboard to measure Member States' customs performance in order to further the fight against counterfeiting, and to put in place a rapid information exchange network on counterfeit products, based on national contact points and modern information exchange tools;
62. Calls on the Member States to step up coordination between their customs services and to apply Community rules on customs duties uniformly throughout the European Union;
63. Calls on the Member States to develop, with the Commission, a common approach to the destruction of counterfeit goods;
64. Asks the Commission to promote the implementation of the simplified procedure laid down in Article 11 of Regulation (EC) No 1383/2003 in all Member States;
65. Further suggests that significant aspects of counterfeiting (product imitation/trademark infringement on a commercial scale) differ from those of piracy (copyright infringement on a commercial scale), and that consideration should be given to dealing with them independently and separately, especially having regard to the urgent need to address public health and safety aspects prevalent in counterfeiting;

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66. Supports, as regards the area of public health, the World Health Organisation definition of counterfeit medicine: 'a medicine which is deliberately and fraudulently mislabelled with respect to identity and/or source. Counterfeiting can apply to both branded and generic products and counterfeit products may include products with the correct ingredients or with the wrong ingredients, without active ingredients, with insufficient active ingredients or with fake packaging';

67. Highlights the importance of respecting fundamental rights such as the protection of privacy and data when taking measures to combat counterfeiting and piracy;

#### **Final considerations**

68. Calls on the Commission, in association with the Council and the Member States, to frame a policy that is clear, structured and ambitious, which, alongside internal customs, should coordinate and guide the 'external' actions of the European Union and its Member States in the fight against counterfeiting and piracy;

69. Calls on the Commission to promote measures that are complementary to legislative standards and, in particular, to promote greater European awareness on the dangers of counterfeiting aimed at changing people's attitudes to counterfeiting and piracy;

70. Considers that the establishment of an international counterfeiting scoreboard should be considered by the Commission which could be modelled on the Internal Market Scoreboard and which would highlight countries that are below average in tackling combating of counterfeit goods;

71. Urges the Council and the Commission to enable the Parliament to play a more central role in the fight against counterfeiting; considers it particularly advisable for the European Union to promote its political presence in specialist international meetings such as the Global Anti-counterfeiting and Piracy Congress, and in the international organisations involved in intellectual property protection;

72. Calls on the Commission and Council to keep it fully informed and to involve it in all relevant initiatives; believes that in the spirit of the Lisbon Treaty, ACTA should be ratified by the European Parliament under the assent procedure;

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

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## **Accounting requirements as regards medium-sized companies**

P6\_TA(2008)0635

### **European Parliament resolution of 18 December 2008 on accounting requirements as regards small and medium-sized companies, particularly micro-entities**

(2010/C 45 E/10)

*The European Parliament,*

— having regard to Article 192(2) and Article 232(2) of the EC Treaty,

— having regard to the Framework Agreement on Relations between the European Parliament and the Commission of 26 May 2005 <sup>(1)</sup>,

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<sup>(1)</sup> OJ C 117 E, 18.5.2006, p. 125.

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- having regard to its resolution of 21 May 2008 on a simplified business environment for companies in the areas of company law, accounting and auditing <sup>(1)</sup>,
  - having regard to the Commission's communication of 25 June 2008 entitled 'Think Small First' — a 'Small Business Act' for Europe (COM(2008)0394),
  - having regard to the opinion of the High Level Group of Independent Stakeholders on Administrative Burdens of 10 July 2008 entitled 'Administrative burden reduction; priority area *company law/annual accounts*',
  - having regard to its position adopted at first reading on 18 December 2008 with a view to the adoption of Directive 2008/.../EC of the European Parliament and of the Council amending Council Directive 78/660/EEC and 83/349/EEC as regards certain disclosure requirements for medium-sized companies and obligation to draw up consolidated accounts <sup>(2)</sup>,
  - having regard to the Commission statement on the accounting requirements as regards medium-sized companies made to Parliament during the plenary sitting of 18 December 2008,
  - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas the existing accounting rules laid down by the Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies <sup>(3)</sup> (the 4th Company Law Directive) and the Seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 54(3)(g) of the Treaty on consolidated accounts <sup>(4)</sup> (the 7th Company Law Directive) are often very burdensome for small and medium-sized companies, and in particular for micro-entities (very small companies),
- B. whereas the High Level Group of Independent Stakeholders on Administrative Burdens, in its abovementioned opinion, has already called on the Commission to exempt micro-entities from the accounting directives,
1. Reminds the Commission that, while a coherent and harmonised accounting system in the European Union facilitates trade within the internal market, micro-entities are excessively burdened by existing accounting rules; that those companies may, for example, be small retailers or handicraft businesses; that, where those undertakings are active mainly within one Member State at local or regional level, they have no cross-border impact on the internal market or on competition within the EU; and that Member States should therefore have the option of fully or partly exempting those companies from statutory accounting obligations;
2. Calls on the Commission to present a legislative proposal that allows Member States to exempt from the scope of the 4th and 7th Company Law Directives companies which — on the basis of their balance-sheet data — do not exceed the limits of two of the following three criteria:
- balance sheet total: EUR 500 000
  - net turnover: EUR 1 000 000
  - average number of employees during the financial year: 10
- if the business activities of those companies are conducted at local or regional level within one Member State;

<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0220.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0631.

<sup>(3)</sup> OJ L 222, 14.8.1978, p. 11.

<sup>(4)</sup> OJ L 193, 18.7.1983, p. 1.



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3. Calls on the Commission, with a view to stimulating simplification and harmonisation of company law and in particular of accounting rules within the internal market, to continue its efforts to review the 4th and 7th Company Law Directives and to present a uniform European accountancy framework before the end of 2009; reminds the Commission that a uniform standard will reduce the administrative burden for all small and medium-sized companies and will increase transparency for all relevant stakeholders, and that simplification should also be greatly stimulated by a structured European introduction of XBRL (Extensible Business Reporting Language);
4. Instructs its President to forward this resolution to the Commission.

## European Authentic Act

P6\_TA(2008)0636

### European Parliament resolution of 18 December 2008 with recommendations to the Commission on the European Authentic Act (2008/2124(INI))

(2010/C 45 E/11)

*The European Parliament,*

- having regard to Article 192, second paragraph, of the EC Treaty,
  - having regard to the Commission's communication of 10 May 2005 entitled 'The Hague Programme: Ten priorities for the next five years. The Partnership for European renewal in the field of Freedom, Security and Justice' (COM(2005)0184),
  - having regard the comparative study on authentic instruments conducted for the Committee on Legal Affairs,
  - having regard to Rules 39 and 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0451/2008),
- A. whereas, in its aforesaid communication on the Hague Programme, the Commission singled out, as one of its priorities, the need to guarantee an effective European area of civil justice, not least as regards the recognition and enforcement of judicial decisions; whereas, with the aim of strengthening mutual trust within the European Union, that programme stated that continued implementation of the principle of mutual recognition was a main priority in the coming years, as mutual recognition is a specific means of protecting the rights of citizens and guaranteeing their application across borders in Europe,
  - B. whereas the Hague Programme states that continued implementation of the programme of mutual recognition is a main priority and that this should be completed by 2011,
  - C. whereas there is a steady increase in the movement of citizens within the Union; whereas there is therefore a development in the number of legal situations concerning two or more Member States,
  - D. whereas, in its aforesaid Communication on the Hague Programme, the Commission recognised that in the field of civil justice one key aspect that needs to be addressed is the recognition of public documents; whereas, in this respect, there is an urgent need to promote the recognition and enforcement of authentic acts, as defined in the *Unibank* judgment <sup>(1)</sup>,

<sup>(1)</sup> Judgment of the Court of Justice of 17 June 1999 in Case C-260/97 *Unibank* [1999] ECR I-3715.

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- E. whereas the sectoral and inconsistent approach taken by Community legislation in this field is not satisfactory <sup>(1)</sup>,
- F. whereas there is a need to protect European citizens in their cross-border family and property relationships,
- G. whereas businesses have more and more branches abroad and intra-Community activities that result in the greater movement of authentic acts relating to the setting-up and operation of businesses,
- H. whereas it is essential to establish a clear and comprehensive legal framework for the Union that guarantees citizens and economic operators the certainty and predictability of legal situations and transactions drawn up by those delegated with public authority,
- I. whereas the creation of a genuine European legal area is based, in the field of litigation, on the cross-border recognition of legal decisions made by a court or administrative authority and, in non-judicial matters, on the cross-border recognition of authentic acts drawn up or registered by a judicial authority or by public officials appointed to authenticate legal acts,
- J. whereas the existing regulations on the mutual recognition of legal decisions apply to authentic acts when these emanate from the public authorities,
- K. whereas the key characteristic of an authentic act is that it has a greater probative value than a private agreement and that this probative value, which must be accepted by the judge, is regularly conferred on it in Member State legislation on account of the trust placed in acts drawn up, in the context of legal transactions, by a public officer appointed for that purpose or by a public authority <sup>(2)</sup>,
- L. whereas the prerequisite for the probative value of an authentic act is recognition of its authenticity, in that it emanates from a public official vested with the power to draw up authentic acts or from a public authority; whereas mutual trust in the legal systems of the Member States justifies making authenticity verification procedures only applicable in future when serious doubts arise as to the veracity of the document,
- M. whereas respect for the legislation of the Member State on the territory of which the act is to be produced for use nevertheless entails the certainty that recognition of the probative value does not mean that the foreign authentic act enjoys a greater probative value than national authentic acts in that Member State by virtue of its recognition in the Member State in which it is to be produced; whereas the material scope of the Regulation requested should cover an essential part of civil and commercial law, with the exception of certain clearly defined matters,
- N. whereas differences in the structure and organisation of public registry systems in the field of immovable property, as well as differences concerning the nature and scale of the public confidence placed in them, mean that the transfer of immovable property rights has to be excluded from a future Community instrument, given the close correlation between the method of drawing up an authentic act and entry in the public register,

<sup>(1)</sup> Council Regulation (EC) No 44/2001 (OJ L 12, 16.1.2001, p. 1); Council Regulation (EC) No 2201/2003 (OJ L 338, 23.12.2003, p. 1); Council Regulation (EC) No 805/2004 (OJ L 143, 30.4.2004, p. 15).

<sup>(2)</sup> Opinion of Advocate-General La Pergola of 2 February 1999 in *Unibank*, cited above, paragraph 7.

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- O. whereas, as regards the recognition of legal decisions across the Union, this exclusion corresponds to attributing exclusive competence to the courts of the place where the property is situated for all appeals relating to immovable property rights and to the courts on the territory where the public register is kept for all appeals relating to the validity of entries in the public register <sup>(1)</sup>,
- P. whereas the concept of an authentic act does not exist in common-law systems, in particular the law of England and Wales, or in Nordic countries; whereas although in England and Wales there exist solicitors who act as notaries public and the profession of scrivener notaries, those lawyers cannot produce authentic acts, but are merely empowered to certify signatures, and whereas accordingly, in adopting any legislation on European authentic acts, steps should be taken to ensure that no confusion can arise in this respect; whereas, in turn, every precaution should be taken to ensure that authentic acts cannot be used in countries where such acts cannot be made by nationals of those countries in order to circumvent procedures prescribed by the those countries' legal systems (e.g. grant of probate); whereas, in addition, in order to raise awareness among legal professionals in those Member States where authentic acts do not exist, a suitable information campaign should be initiated by the Commission and every effort should be made to ensure that common-law legal professionals are aware of the work done by civil-law public officials and of the potential advantages for their clients — in terms of legal certainty, in particular — of using authentic acts in transactions which they are proposing to conclude in those countries where that instrument is used; whereas this underscores a need often expressed by Parliament's Committee on Legal Affairs for trans-European networks of legal practitioners, information campaigns and material and common training, which the Commission is called upon to promote,
- Q. whereas the Regulation requested may not apply either to matters relating to the applicable law covered by other Community instruments or to questions relating to the competence, organisation and structure of public authorities and officials, including the authentication procedure, which come under the jurisdiction of the Member States,
1. Considers that mutual trust in the field of law within the Community justifies the future abolition of procedures for checking the accuracy of authentic acts in cross-border matters; considers that this recognition of an authentic act for the purpose of its use in the requested Member State can only be refused in the case of serious and substantiated doubts as to its authenticity, or if recognition is contrary to public policy in the Member State requested;
  2. Requests the Commission to submit to Parliament, on the basis of Article 65(a) and the second indent of Article 67(5) of the EC Treaty, a legislative proposal on establishing the mutual recognition and enforcement of authentic acts;
  3. Stresses that recognition may not result in giving a foreign act greater effect than a national act would have;
  4. Asks that the Regulation requested apply to all authentic acts in civil and commercial matters except those which relate to immovable property and which must or may be subject to entry or mention in a public register;
  5. Specifies that the Regulation requested should not apply either to matters relating to the law applicable to the subject-matter of the authentic act or to questions relating to the competence, organisation and structure of public authorities and officials, including the authentication procedure;

<sup>(1)</sup> See Article 22, points 1 and 3, of Regulation (EC) No 44/2001.

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6. Notes, in this context, that the recommendations annexed hereto respect the principles of subsidiarity and proportionality and the fundamental rights of citizens;
7. Considers that the requested proposal will not have any financial implications;
8. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council, and to the governments and parliaments of the Member States.

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ANNEX

DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL REQUESTED

1. Mutual trust in the field of law within the Community justifies the future abolition of procedures for checking the accuracy of authentic acts in cross-border matters.
2. This recognition of an authentic act for the purpose of its use in the requested Member State can only be refused where there is serious and substantiated doubt as to its authenticity, or if recognition is contrary to public policy in the Member State requested.
3. Parliament requests the Commission to submit to it, on the basis of Article 65(a) and the second indent of Article 67(5) of the EC Treaty, a legislative proposal on establishing the mutual recognition and enforcement of authentic acts.
4. The act that is the subject of the legislative proposal should apply to all authentic acts in civil and commercial matters except those which relate to immovable property and which must or may be subject to entry or mention in a public register. It should not apply either to matters relating to the law applicable to the subject-matter of the authentic act or to questions relating to the competence, organisation and structure of public authorities and officials, including the authentication procedure.

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**E-Justice**

P6\_TA(2008)0637

**European Parliament resolution of 18 December 2008 with recommendations to the Commission on e-Justice (2008/2125(INI))**

(2010/C 45 E/12)

*The European Parliament,*

- having regard to Article 192, second paragraph, of the EC Treaty,
- having regard to the work of the Council's Working Party on Legal Data Processing (e-Justice),
- having regard to the Commission's communication of 30 May 2008 entitled 'Towards a European e-Justice Strategy' (COM(2008)0329),
- having regard to the ongoing work carried out in this field by the European Commission for the Efficiency of Justice (CEPEJ) at the Council of Europe,

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- having regard to Rules 39 and 45 of its Rules of Procedure,
  
- having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0467/2008),
  
- A. whereas the Council decided in 2007 to start work on the development at European level of the use of information and communication technologies (ICT) in the justice field, particularly by creating a European portal,
  
- B. whereas, with some 10 million people estimated to be involved in cross-border litigation in Europe, greater recourse to information technology (IT) is essential in order to ensure better access to justice for citizens and with a view to rationalising and simplifying judicial proceedings and reducing procedural deadlines and operating costs in cross-border litigation,
  
- C. whereas e-Justice has a broad definition including, in general, the use of electronic technologies in the field of justice, and whereas this definition covers a number of issues which are not necessarily linked to the concept of e-Justice as interpreted by the Commission in its abovementioned communication of 30 May 2008 and by the Council's Working Party on e-Justice,
  
- D. whereas, if it is applied properly, IT can make a significant contribution to improving the accessibility and efficiency of Europe's judicial and legal systems; whereas, with an increasingly integrated internal market and growing mobility within Europe, the challenges inherently faced by a cross-border judicial system, such as language, distance and unfamiliar legal systems, are likely to become more common; whereas these problems can, however, be eased to some extent through the appropriate application of ICT, thus not only improving access to justice for Europe's citizens but also contributing to the efficiency of the single market,
  
- E. whereas, as stressed in the CEPEJ report on the use of ICT in European judicial systems, the application of electronic technologies to justice does not always have a positive effect and, in order to obtain good results, the action must be carried out in an institutional and strategic way,
  
- F. whereas, in the longer term, the use of IT in dispute resolution and settlement will necessitate fundamental changes in procedural law and in the way legislation is conceived and drafted, and efficient access to the law and justice will require the linking of registers (commercial and companies registers, land registers, registers of wills, etc.); whereas Parliament has already been concerned to make access to justice more compatible with the use of IT in its treatment of legislation on small claims, the European enforcement order and mediation; whereas the use of IT is encouraged in all areas, including the submission, distribution and service of documents, the giving of evidence and the treatment of legal aid applications, and hence reflected in all future legislative proposals; whereas action in the areas of electronic acts, transparency of debtors' assets and evidence could already be contemplated,
  
- G. whereas the idea of creating an e-Justice portal/network is welcome, but care must be taken to ensure that the needs of both EU citizens and EU legal practitioners are addressed and to facilitate access to justice by offering transparent and easy means of accessing information; whereas the relationship between EU citizens and national public authorities should thereby be facilitated, and victims of crimes, suspects and 'justice users' in general should be able to benefit from EU-justice tools in their daily lives; whereas, at the same time, in order to be really effective, the portal/network should be inserted as a pilot project within the framework of the trans-European networks adumbrated in Article 154 of the EC Treaty and developed by interoperability solutions for European public administrations (ISA) as referred to in the Commission's communication of 29 September 2008 (COM(2008)0583),

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- H. whereas, since only 50 % of European citizens have access to the Internet, the development and implementation of e-Justice services should go hand in hand with absolute observance of the principles of transparency, equality before the law and public scrutiny and should, at least during the transitional period, be supplementary and optional in nature in relation to the practices pursued hitherto in the Member States,
- I. whereas existing portals are primitive, cluttered and not user-friendly, and whereas the best minds in IT should be deployed to improve access to information, electronic systems and registers; whereas a single European justice portal, with differential access for the judiciary and civil servants, legal and other professionals and citizens should provide an identity management system to separate the citizens' area from the professionals' area; whereas although it is essential to build on and improve the European Judicial Network, the main emphasis, as never before, should be on access to justice by citizens and businesses,
- J. whereas attainment of the objective of creating a European area of justice is to a certain extent slowed down by the small number of judicial authorities who can access EU judicial training, and whereas electronic tools could contribute significantly to the widespread dissemination of a European judicial culture which is the basis of the future European area of justice,
- K. whereas regard should be had to the significant disparities in national judges' knowledge of Community law across the Member States, as highlighted by Parliament in its resolution of 9 July 2008 on the role of the national judge in the European judicial system <sup>(1)</sup>,
- L. whereas a start must be made immediately in tackling key issues in the field of e-Justice, including that of language,
- M. whereas the Ministers of Justice have endorsed a decentralised approach to developing e-Justice at European level, with some central coordination, enabling information to be shared at European level, whilst allowing the independent operation of national systems and avoiding the burdens inherent in the creation of a new, centralised EU e-Justice system, and whereas certain Member States are engaged in bilateral cooperation; whereas the Council Working Party has concluded that e-Justice initiatives should be non-compulsory for Member States, rather than obliging them to introduce new national systems or fundamentally changing existing ones,
- N. whereas information technology has proved to be an effective tool in tackling transnational crime, as highlighted by the results achieved for instance by the Schengen Information System and its further developments; whereas the use of high technology in preventing and fighting transnational crime should be fully exploited and projects such as the European Criminal Records Information System should receive the widest support, including in financial terms,
- O. whereas the current system of gathering criminal evidence in other Member States is still based on slow and ineffective instruments offered by mutual assistance in criminal matters, and whereas, where appropriate and only where it would not be detrimental to the legal position of the person giving testimony, the use of technological tools such as video conferencing would be a great step forward in the taking of evidence at a distance,
- P. whereas the creation of a European area of justice also entails enhancing the fundamental rights and procedural safeguards of EU citizens, and whereas the strategy should be implemented in full compliance with the highest standards of data protection,
- Q. whereas legislative measures aimed at increasing knowledge of the criminal justice systems of the other Member States should go hand in hand with making such knowledge available online,

<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0352.

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1. Endorses the Commission's plans, in particular the proposal to promote a European Interoperability Framework (EIF) within the IDABC programme and ongoing work on e-Signature and e-Identity;
2. Invites the Commission to complement the European area of justice, freedom and security with an area of e-Justice by:
  - (a) taking concrete action with a view to the implementation of the European area of e-Justice;
  - (b) clearly identifying matters covered by EU action by, for instance, using a different definition or prefixing the term 'e-Justice' with 'EU' so as to refer to 'EU e-Justice' or 'EU-Justice';
  - (c) implementing the e-Justice portal/network while addressing the needs of both EU citizens and EU legal practitioners and ensuring that transparent and easy means to access information are available by taking advantage of the trans-European networks adumbrated in Article 154 of the EC Treaty and developed by ISA;
  - (d) making wide use of electronic tools in the development of a European judicial culture;
  - (e) fully exploiting the potential of new technologies for preventing and fighting transnational crime;
  - (f) enhancing and providing, without delay, tools such as video-conferencing for improving the taking of evidence in other Member States;
  - (g) enhancing fundamental rights, procedural safeguards in criminal proceedings and data protection as an integral part of the drafting and implementation of the Action Plan on EU-justice;
3. Considers that the work of the Institutions should be more strongly citizen-focused;
4. Whilst welcoming the enthusiasm of Member States for the setting-up of bilateral projects which could later be expanded to include all Member States and therefore hopefully provide the optimum outcome for the EU as a whole, warns against the possible fragmentary effect of such an approach and trusts that this will be guarded against;
5. Calls on the Commission to give the necessary attention to developing e-learning tools for the judiciary in the context of e-Justice;
6. Confirms that the recommendations respect the principle of subsidiarity and the fundamental rights of citizens;
7. Considers that the proposal requested does not have any financial implications;
8. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission and the Council and to the governments and parliaments of the Member States.

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ANNEX

DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL REQUESTED

***Recommendation 1 (as to the form and scope of the instrument to be adopted)***

In the absence of a resolution voted by the Council on an action plan involving the Commission in its realisation, the Commission is asked to prepare an Action Plan on e-Justice at European level. It should consist of a series of individual actions as detailed below, some of which might result in legislative proposals, for example for administrative cooperation under Article 66 of the EC Treaty, others in recommendations and others in administrative acts and decisions.



(Concrete action for the implementation of the European area of justice) The first step in this direction would of course be providing every judicial authority in the EU with a computer, an email address and an Internet connection. This might appear obvious but unfortunately it is not: in many cases judicial authorities are not provided with this indispensable tool or, even if they are, they cannot or do not want to use it. This situation must be overcome.

(Clearly identifying the scope of e-Justice) In order to avoid misunderstandings, it would be appropriate to clearly identify matters covered by EU action by, for instance, using a different definition or prefixing the term 'e-Justice' with 'EU', so as to refer to 'EU e-Justice' or 'EU-Justice'.

### ***Recommendation 2 (as to the minimum content of the instrument to be adopted)***

The Action Plan should be made up of at least the following actions:

#### *1. EU-justice Action Plan.*

In order to avoid fragmentation and to enhance coordination and consistency, the Commission, together with Parliament, should draft an Action Plan on EU-justice geared to the needs of citizens and practitioners, proposing a strategy for the optimum implementation of the European area of justice. From this perspective, EU institutions and Member States should loyally cooperate (in accordance with Article 10 of the EC Treaty) by committing themselves to notifying each other of any relevant information including newly adopted legislation, as already happens, *mutatis mutandis*, in the internal market with the exchange of information on national technical regulations. At the same time, whilst any measure aimed at improving mutual understanding of the information is welcome, attention must be paid to clearly defining and circumscribing the use of automatic translation systems, inasmuch as these sometimes produce 'translations' which prove to be misleading.

#### *2. Action to 'future-proof' legislation*

The Commission should set up suitable machinery to ensure that all future legislation in the field of civil law is designed in such a way that it can be used in on-line applications. For example, steps could be taken to ensure that the proposed European Private Company can be set up using online applications and that proposals on the recognition of instruments such as those dealing with the legal protection of adults and other authentic acts are adapted for online use. Accordingly, where proposals are made involving forms intended to be filled out by citizens, the forms should be designed and formatted *ab initio* for electronic use and made available in all official languages of the Member States. Action should be taken to reduce to a minimum the need to input free text and to ensure that, where necessary, on-line help is provided in all official languages and on-line electronic translation services are available. By the same token, where there is a need to provide for service of documents, provision should be made to ensure that documents can be served and communications effected by electronic mail and signatures provided electronically and, where there is a need for oral testimony, the use of video-conferencing should be encouraged.

All future proposals should include a reasoned statement by the Commission that an audit of e-Justice-friendliness has been carried out.

The Commission should carry out an audit of all existing legislation in the field of civil justice and propose amendments where necessary in order to make existing legislation compatible with the requirements of e-Justice. More specifically, the Commission is asked in this context to examine as a priority the European small-claims procedure, the European enforcement order and alternative dispute resolution (ADR) so as to

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permit citizens and businesses to have direct access to them on-line. Similarly, the Service of Documents Regulation <sup>(1)</sup> and the Civil Evidence Regulation <sup>(2)</sup> should be revisited. The aim should be to provide a panoply of effective, simple instruments which are useful to and useable by ordinary citizens and small businesses, not a system which only favours commercial litigants processing bulk claims.

3. *Action on civil procedure*

The Commission and the Council should report to the European Parliament on the reform and harmonisation of procedural law and the law of evidence in cross-border cases and cases before the Court of Justice, having regard to developments in the field of information technology. The aim should be simpler, cheaper and faster civil proceedings in cross-border cases.

4. *Action on the law of contract and consumer law*

Here the emphasis should be on preventive law by providing for greater clarity and simplicity and avoiding the pitfalls, problems and expense posed in particular by private international law.

In this context, the Commission is asked to get to work on standard terms and conditions for electronic commerce. Ultimately, this would allow electronic traders to offer a 'blue button' whereby consumers (or indeed other traders) could accept the application of standard European contract law to their transactions. This could be coupled with an on-line complaints system and access to approved on-line ADR.

5. *Action on languages, multilingualism and interoperability*

A programme should be launched to examine how best to provide on-line translation facilities for the European e-Justice portals. In parallel, a working group should be set up on simplification and standardisation of terminology. Each Member State should provide a database of legal translators and interpreters.

6. *Action on European e-Justice portals*

All the above actions should feed into a coordinating and management unit, responsible also for coordinating the contributions of the various Member States and ensuring that they are interoperable.

The coordinating and management unit should also bear responsibility for the design and operation of the European e-Justice portal, which should provide areas for citizens, legal professionals and the judiciary and civil servants, and report to the Commissioner for Justice, Freedom and Security, the European Parliament and the Council. Feasibility studies of the use of electronic signatures in a legal setting, remote accessing of national registers (insolvency registers, land registers, commercial registers, etc) and the creation of a secure network should be started as soon as possible (not later than 2009-2010), taking into account the results already achieved by the Council (interconnection of insolvency registers, possible cooperation with EULIS and EBR). The feasibility study for a virtual exchange platform should begin in 2011. The feasibility studies should conform to the rules on publicity and access to information laid down in each Member State in order to ensure data protection and legal certainty in respect of information.

In carrying out these studies, account should be taken of the work already carried out by the notarial profession in this field (recognition of signatures, e-Notary, register of wills, etc). The aim is to secure user-friendly tools for citizens, businesses, practitioners, the judiciary and officials responsible for the administration of justice.

(a) *The European e-Justice Portal for Citizens*

This multilingual portal should be designed to afford every assistance to citizens and businesses seeking legal assistance and initial legal advice about cross-border legal problems.

<sup>(1)</sup> Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (OJ L 160, 30.6.2000, p. 37).

<sup>(2)</sup> Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174, 27.6.2001, p. 1).

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Apart from access to legal databases and electronic remedies (small claims, order for payment) on-line ADR schemes (including Solvit) and ombudsmen, it should incorporate intelligent systems designed to help citizens to find out how to deal with legal problems. Such systems should guide people on how (a) to find a lawyer in another Member State who speaks their language (advocate, notary, solicitor, etc), explaining their respective functions, (b) to ascertain what legal aid, if any, is available and (c) to determine what steps to take in order to carry out certain formalities in the different Member States (e.g. how to set up a company, file accounts, draw up a will, buy/sell a house, etc). They should also be able to give a guide as to what the type of problem is, what procedural steps have to be taken and so on.

Where possible, initial free legal advice by e-mail should be provided through, and under the supervision of, national professional bodies. At the very least, directories of lawyers, notaries, bailiffs and process-servers, auditors, nationally licensed experts and legal translators and interpreters in each Member State should be available, together with links to the competent professional body. Plain guides to the legal system of each Member State should also be to hand.

Rapid access to emergency legal assistance and the police should also be possible.

In addition, the portal should also afford access to various registers and allow the publication of national Official Notices.

*(b) The secure European e-Justice Portal*

This portal should be designed for use as a tool by judges, court officials, officials of the national Ministries of Justice and practising lawyers with security ensured by the provision of different access rights.

Apart from providing access to legal and legislative databases and the fullest possible range of national registers, it should also permit secure communication, video-conferencing and document exchange between courts and between courts and parties to proceedings (dematerialisation of proceedings). To this end, it should also enable verification of electronic signatures and make provision for appropriate verification systems.

The portal should also afford a means of exchanging information about, for instance, persons who are debarred from working with children or acting as company directors.

The contact points of the European Judicial Network in Civil and Commercial Matters in the Member States should be encouraged to play an active role in the development of European e-Justice by contributing to the conception and design of the future portals, including the citizens' e-Justice portal, as part of the Community's e-Justice policy, designed in particular to afford direct access to justice for citizens. As an initial step, the Internet sites of the national Ministries of Justice should include a link to the site of the European Judicial Network.

The portal should give EU citizens information on the criminal justice system of the Member States, in particular regarding their rights, and should include practical information on what authority to address and how, on how obtain forms and on legal aid, as well as lists of lawyers able to deal with foreign clients. The portal should also provide legal practitioners with EU legislation and with relevant legislation of the Member States. The websites of European Judicial Training (EJT), the European Judicial Network in civil and commercial matters (EJN), the European Judicial Training Network (EJTN) and other bodies already offer much useful information. Nevertheless, this information is fragmentary and not easy to find. Relevant judicial decisions should be made available. All this information should be available on-line and off-line, and particular attention must be paid to synchronisation mechanisms offering updated information (RSS-feed).

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#### 7. *Judicial training*

In order to spread the European judicial culture and with a view to reaching as many members of the judiciary as possible from the very first moment they join the judiciary, a sort of 'survivor' kit in the form of a CD or USB key containing the EU Treaty and the EC Treaty, as well as the basic texts on judicial cooperation and information on the other Member States' judicial systems, should be given to any newly appointed member of the judiciary. Consideration should also be given to EU publications addressed to citizens who provide practical information on EU judicial cooperation and the criminal justice systems of other Member States. In addition, electronic training tools offered by the EJTN, which represents judicial training schools all over the EU, should be given adequate attention and support by the Commission and the Council.

#### 8. *Preventing and fighting transnational crime*

So far, the most important application of e-Justice in the context of criminal justice is the creation of the European Criminal Records Information System. To be effective, this system needs to be supported by an electronic structure able to interconnect all national criminal registers <sup>(1)</sup> which should be put in place without delay. Another IT application of relevance to the area of justice, freedom and security is the Schengen Information System (SIS), a large-scale database enabling the relevant authorities in the Member States to exchange information and cooperate in many ways, including by transmitting, in a secure and extremely fast way, European arrest warrants. As reflected in Parliament's position of 2 September 2008 <sup>(2)</sup>, Eurojust is a key player in the fight against transnational crime at EU level. Its coordination action is fundamental to tackling serious crime phenomena which increasingly use technological means. Thanks also to its innovative data-processing system (the E-POC system), the number of cases managed by Eurojust in 2008 reached the threshold of 1 000. These examples must be multiplied and funded with EU financial resources.

#### 9. *Video-conferencing*

The use of video-conferences in the context of criminal proceedings in certain Member States is quite common. It allows evidence to be gathered by taking the statements of accused persons, witnesses or experts in their physical absence whilst at the same time providing adequate protection to those needing protection. The 2000 European Convention on Mutual Assistance in Criminal Matters lays down rules on the hearing of witnesses, accused persons and experts by video-conference. It has now been ratified by 24 Member States. The European Parliament calls on Member States to complete the ratification process as soon as possible. No statistics are yet available on the practical application of video-conferences. It appears that video-conferencing is still not being fully exploited, one of the reasons being the lack of the requisite electronic support. Support and financial assistance by the EU must be delivered as soon as possible.

#### 10. *Enhancing fundamental rights and procedural safeguards*

Any technological progress is welcome in so far as it does not jeopardise fundamental rights. Bearing this in mind, in drafting and implementing the strategy and the Action Plan, attention must be devoted to respect for fundamental rights and notably procedural safeguards and data protection, giving EU citizens the right to access the information stored and shared by the relevant authorities and informing them of the available remedies. A real e-justice strategy cannot function without harmonisation of procedural safeguards and adequate data-protection safeguards applying to cooperation in criminal justice matters.

<sup>(1)</sup> Parliament supports this project and hopes that it will be put in place, taking into account its position of 9 October 2008 on the establishment of the European Criminal Records Information System (ECRIS) (Texts Adopted, P6\_TA(2008)0465).

<sup>(2)</sup> European Parliament position of 2 September 2008 on the initiative of the Kingdom of Belgium, the Czech Republic, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic and the Kingdom of Sweden with a view to adopting a Council Decision on the strengthening of Eurojust and amending Decision 2002/187/JHA (Texts Adopted, P6\_TA(2008)0384).

## Cross-border implications of the legal protection of adults

P6\_TA(2008)0638

### European Parliament resolution of 18 December 2008 with recommendations to the Commission on cross-border implications of the legal protection of adults (2008/2123(INI))

(2010/C 45 E/13)

*The European Parliament,*

- having regard to Article 192, second paragraph, of the EC Treaty,
- having regard to the Hague Convention of 13 January 2000 on the international protection of adults,
- having regard to the United Nations Convention on the Rights of Persons with Disabilities of 13 December 2006,
- having regard to the proposal for a Council decision concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (COM(2008)0530),
- having regard to the Communication from the Commission to the Council and the European Parliament of 10 May 2005 entitled 'The Hague Programme: Ten priorities for the next five years. The Partnership for European renewal in the field of Freedom, Security and Justice' (COM(2005)0184),
- having regard to Rules 39 and 45 of its Rules of Procedure,
- having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0460/2008),
- A. whereas in its aforesaid Communication on the Hague Programme, the Commission singled out, as one of its priorities, the need to guarantee an effective European area of civil justice, not least as regards the recognition and enforcement of judicial decisions,
- B. whereas work and consultations have been conducted in that context on decisions concerning family property issues, successions and wills, with a view to drawing up new legislative proposals,
- C. whereas there is also a need to promote the recognition and enforcement of legal or administrative decisions regarding persons who are the subject of protection measures,
- D. whereas care must be paid to the often delicate and vulnerable circumstances of persons who are the subject of protection measures and requests for cooperation, information or recognition and enforcement need to be handled swiftly,
- E. whereas situations have developed in which the implementation of legal protection concerns two or more Member States,
- F. whereas situations have also developed in which cases involving legal protection concern two or more Member States and concern Member States and non-EU States, in particular because of traditional migration flows (former colonies, the United States and Canada),
- G. whereas problems have arisen because of the increasing movement between Member States where there is a net outflow of retired people, including vulnerable adults, and those Member States where there is a net inflow of retired individuals,

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- H. whereas the need for and the principles governing the legal protection of vulnerable adults were agreed by all EU Member States in the Council of Europe's Recommendation No. R (99) 4 of the Committee of Ministers to member states on principles concerning the legal protection of incapable adults, adopted on 23 February 1999,
  - I. whereas the legal protection of vulnerable adults must be a pillar of the right of free movement of persons,
  - J. whereas disparities currently exist between the laws of the Member States in the field of protection measures,
  - K. whereas the provisions of the UN Convention on the Rights of Persons with Disabilities need to be borne in mind,
  - L. whereas the provisions of the Hague Convention can help to achieve the goal of establishing an area of justice, freedom and security by facilitating the recognition and enforcement of decisions granting a protection measure, determination of the law to be applied and cooperation between the central authorities,
  - M. whereas specific and appropriate measures for cooperation between the Member States should be implemented, which could draw on the instruments under that Convention,
  - N. whereas single Community forms could be introduced to promote information on protection decisions and the circulation, recognition and enforcement of those decisions,
  - O. whereas a single Community form could be created at European Union level in the case of incapacity mandates, in order to ensure their effectiveness in all the Member States,
  - P. whereas mechanisms could be introduced for the easy recognition, registration and use of lasting powers of attorney throughout the European Union,
- 
1. Welcomes the commitment of the French Presidency regarding the situation of vulnerable adults and their cross-border legal protection; congratulates those Member States which have signed and ratified the Hague Convention and encourages those Member States which have not yet signed or ratified it to do so;
  2. Requests the Commission, as soon as sufficient experience of the operation of the Hague Convention has been acquired, to submit to Parliament, on the basis of Article 65 of the EC Treaty, a legislative proposal on strengthening cooperation between Member States and improving the recognition and enforcement of decisions on the protection of adults and incapacity mandates and lasting powers of attorney, following the detailed recommendations set out below;
  3. Calls on the Commission to monitor experience with the application of the Hague Convention and its implementation in the Member States, and to submit to Parliament and the Council in due course a report summarising the problems and best practices in its practical application and containing, if necessary, proposals for Community provisions supplementing or specifying the manner in which the Convention is to be applied;



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4. Calls on the Commission to assess the option of the accession of the Community to the Hague Convention; suggests that this could be an area of enhanced cooperation between Member States;
5. Calls on all Member States which have not yet signed or ratified it to accede to the UN Convention on the Rights of Persons with Disabilities, inasmuch as this would serve to enhance the protection of vulnerable adults within the EU;
6. Requests that the Commission finance a study to compare Member States' legislation on vulnerable adults and protection measures with a view to ascertaining where legal issues could arise and what measures would be needed at EU or Member State level to resolve any such issues; considers that the study should also address the issue of institutionalised adults with intellectual disabilities as regards their guardianship and their ability to exercise their legal rights; calls on the Commission to organise a series of conferences for legal professionals directly involved in such cases and to take into account in future legislation the results of the study and the views of professionals;
7. Calls on Member States to ensure that protective measures are proportionate to the state of the vulnerable adults in question, so that individual EU citizens are not denied a legal right when they still have the ability to exercise that right;
8. Calls on Member States to take measures to protect vulnerable adults from becoming victims of identity theft or fraud or other telephone or cyber-crimes, including legal measures to enhance the protection of and/or limit access to a vulnerable adult's personal data;
9. Supports the creation of secure mechanisms, subject to robust rules for the protection of personal data and rules on the limitation of access, for the sharing of best practices and other information regarding protective measures currently in force between Member States, including the possibility of Member States' judicial systems sharing information as to the protection status of a vulnerable adult;
10. Reminds the Commission and Member States that not all vulnerable adults are so because of advanced maturity and asks that steps be taken to strengthen the legal protection and rights not only of elderly vulnerable adults but also of those adults who are vulnerable because of severe physical and/or mental disabilities, and to take their needs into account too when taking future social measures to ensure those legal rights;
11. Confirms that the recommendations respect the principle of subsidiarity and the fundamental rights of citizens;
12. Considers that the requested proposal will not have any financial implications;
13. Instructs its President to forward this resolution and the accompanying detailed recommendations to the Commission, the Council and the governments and parliaments of the Member States.

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## ANNEX

### DETAILED RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

#### A. PRINCIPLES AND AIMS OF THE PROPOSAL

1. To promote the recognition and enforcement of legal or administrative decisions regarding persons who are the subject of protection measures.
2. Provisions to help achieve the goal of establishing an area of justice, freedom and security by facilitating the recognition and enforcement of decisions granting a protection measure, determination of the law to be applied and cooperation between the central authorities.



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3. Specific and appropriate measures for cooperation between the Member States should be implemented, drawing on the instruments available under the Hague Convention.
4. Single Community forms to promote information on protection decisions and the circulation, recognition and enforcement of those decisions.
5. Single Community form created at European Union level in the case of incapacity mandates, in order to ensure their effectiveness in all the Member States.

#### **B. ACTION TO PROPOSE**

1. Requests the Commission, as soon as sufficient experience of the operation of the Hague Convention has been acquired, to submit to Parliament, on the basis of Article 65 of the EC Treaty, a legislative proposal on strengthening cooperation between Member States and improving the recognition and enforcement of decisions on the protection of adults, incapacity mandates and lasting powers of attorney.

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### **Development perspectives for peace-building and nation building in post-conflict situations**

P6\_TA(2008)0639

#### **European Parliament resolution of 18 December 2008 on development perspectives for peace-building and nation building in post-conflict situations (2008/2097(INI))**

(2010/C 45 E/14)

*The European Parliament,*

- having regard to the 1907 Hague Regulations, the four Geneva Conventions from 1949 and their Additional Protocols I and II of 1977,
- having regard to the Universal Declaration of Human Rights of 1948,
- having regard to all United Nations (UN) human rights conventions and the optional protocols thereto,
- having regard to the International Covenant on Civil and Political Rights of 1966 and the two optional protocols thereto,
- having regard to the Charter of the United Nations of 1945 and specifically Articles 1 and 25 and, in Chapter VII, Articles 39 and 41 thereof,
- having regard to the European Convention on Human Rights of 1950 and its five protocols,
- having regard to the UN Millennium Declaration of 8 September 2000, setting out the Millennium Development Goals (MDGs) as criteria established collectively by the international community for the elimination of poverty,
- having regard to UN General Assembly Resolution 60/1 of 24 October 2005 on the 2005 World Summit Outcome, and in particular paragraphs 138-140 thereof on the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity,

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- having regard to UN peacekeeping/peacebuilding interventions in Congo (1962), Namibia (1988), El Salvador (1992), Cambodia (1992), Somalia (1992), Yugoslavia — Serbia, Croatia, Bosnia and Herzegovina (1992-2002), Haiti (1994), Eastern Slavonia (1995-1998), Kosovo (1999), Sierra Leone (1999), East Timor (1999), and the US/UK-led mission to Iraq (2003) and NATO ISAF-led mission to Afghanistan (2001),
- having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific (ACP) Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 <sup>(1)</sup> as last amended by Decision No 1/2006 of the ACP-EU Council of Ministers <sup>(2)</sup> ('the Cotonou Agreement'),
- 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' signed on 20 December 2005 <sup>(3)</sup>, especially to the cross-cutting issues listed in part II, section 3.3: democracy, good governance, human rights, the rights of the children and indigenous peoples, environmental sustainability, gender equality and combating HIV/AIDS,
- 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' <sup>(4)</sup>,
- having regard to Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation <sup>(5)</sup> (Development Cooperation Instrument (DCI)),
- having regard to the Africa-EU Strategic Partnership: A joint Africa-EU Strategy, adopted at the EU-Africa Summit, December 2007,
- having regard to the Conclusions of the General Affairs and External Relations Council (GAERC) on the Western Balkans of 19 November 2007,
- having regard to the Conclusions of the GAERC on the EU guidelines on children in armed conflicts of 16 June 2008,
- having regard to the Conclusions of the GAERC on promoting gender equality and gender mainstreaming in crisis management of 13 November 2006,
- having regard to the Conclusions of the GAERC on the EU Strategy for Africa of 21 and 22 November 2005,
- having regard to the African Union (AU) Policy Framework on Post-Conflict Reconstruction and Development (PCRD), endorsed by AU Member States at the Banjul Summit of 25 June — 2 July 2006,
- having regard to the ten principles for good international engagement in fragile states and situations supported by the Organisation for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC) Fragile States Group and endorsed at the High-Level Meeting of the DAC on 3-4 April 2007 in Paris,

<sup>(1)</sup> OJ L 317, 15.12.2000, p. 3.

<sup>(2)</sup> OJ L 247, 9.9.2006, p. 22.

<sup>(3)</sup> OJ C 46, 24.2.2006, p. 1.

<sup>(4)</sup> OJ C 25, 30.1.2008, p. 1.

<sup>(5)</sup> OJ L 378, 27.12.2006, p. 41.

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- having regard to the Security Sector Reform and Governance, OECD/DAC Guidelines,
- having regard to the European Security Strategy approved by the European Council in Brussels on 12 December 2003,
- having regard to the definition of 'Transitional Justice' contained in the UN Secretary General's 2004 Report on the rule of law and transitional justice in conflict and post-conflict societies <sup>(1)</sup>,
- having regard to the funding facility of EUR 12 million established by the Commission under the European Instrument for Stability to provide assistance to ad-hoc tribunals and transitional justice initiatives around the world,
- 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),
- having regard to its resolution of 15 November 2007 on the EU response to situations of fragility in developing countries <sup>(2)</sup>,
- having regard to the Commission Communication on Conflict Prevention (COM(2001)0211) and to the EU Programme for the prevention of Violent Conflicts adopted at the European Council in Goteborg of 15 and 16 June 2001,
- having regard to the EU Presidency Statement to the UN on 'The rule of law and transitional justice in conflict and post-conflict societies' of 6 October 2004,
- having regard to the EU Concept for support to Disarmament, Demobilisation and Reintegration (DDR) approved by the Council of the European Union on 11 December 2006,
- having regard to the Commission Communication of 23 April 2001 entitled 'Linking Relief, Rehabilitation and Development — An Assessment' (COM(2001)0153),
- having regard to its resolution of 25 October 2007 on the state of play of EU-Africa relations <sup>(3)</sup>,
- having regard to ACP-EU Joint Parliamentary Assembly Resolution No 3937/07 and the July 2007 report by its Political Committee on good governance, transparency and accountability in relation to the exploitation of natural resources in the ACP countries <sup>(4)</sup>,
- having regard to the United Nations Security Council resolutions on Women, Peace and Security (UNSCR 1325) and on Sexual Violence against Civilians in Conflict (UNSCR 1820),
- having regard to the 'Outline for the Joint EU-Africa Strategy' as endorsed by the 8th EU-Africa Ministerial Troika Meeting of 15 May 2007 in Brussels,
- having regard to Articles 177 to 181 of the EC Treaty,
- 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 Women's Rights and Gender Equality and the Committee on Foreign Affairs (A6-0445/2008),

<sup>(1)</sup> (S/2004/616).

<sup>(2)</sup> OJ C 282 E, 6.11.2008, p. 460.

<sup>(3)</sup> OJ C 263 E, 16.10.2008, p. 633.

<sup>(4)</sup> OJ C 254, 26.10.2007, p. 17.

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- A. whereas half of all countries that emerge from conflicts return to conflict within five years and 340 million of the world's extreme poor are estimated to live in states in a situation of fragility, with the absence of hostilities not automatically leading to entrenched and lasting stability and sustainable development,
- B. whereas the MDGs set out coherent and time-bound targets for long-term poverty eradication; whereas by 2010, half of the world's poorest people could be living in states that are experiencing, or at risk of, violent conflict <sup>(1)</sup>,
- C. whereas the building of stable and enduring states requires the creation of a merit-based and accountable civil service free from political interference and corruption,
- D. whereas a transparent, accountable and professional security sector is fundamental to creating the conditions to foster peace and development,
- E. whereas Security Sector Reform (SSR) should focus on providing an effective and legitimate public service that is transparent, accountable to civil authority, and responsive to the needs of the public,
- F. whereas the proliferation of small arms and light weapons fuel conflict and crime; whereas in 2006 civilians accounted for three-quarters of recorded casualties due to landmines <sup>(2)</sup>,
- G. whereas violent conflicts, beyond having a tragic impact on development and human rights, also deter foreign investors, substantially reducing growth, deterring investment in the economy and basic services (according to a recent report <sup>(3)</sup> armed conflict has been shown to shrink an African nation's economy by 15 %); whilst a healthy private sector can eventually provide the basis for sustainable revenues for a legitimate government,
- H. whereas long-term stability can only be achieved through an inclusive involvement in peacemaking, national reconciliation and nation-building of all interested parties, including women and minorities,
- I. whereas truth and reconciliation commissions can assist in helping societies to face legacies of mass abuse, help facilitate dialogue between communities and formerly opposing sides of a conflict, and contribute to justice, reparation and reform measures that will reduce the likelihood of future conflict,
- J. whereas the institutional framework for allowing civil society to develop comes from freedom of association and expression and the development of free media protected by law,
- K. whereas a sustainable well-functioning state also requires a strong civil society to protect people from abuses of power, and a free press pushes against the actions of an over-mighty executive,
- L. whereas states in situations of fragility must be encouraged to allow non-governmental organisations (NGOs) to operate free from unduly bureaucratic registration laws and processes which hinder the development of a truly effective civil society,
- M. whereas the average developing country hosts 260 visits from donors a year and in 2006, across all developing countries, donors directed 70 000 aid transactions and the average project size was only USD 1,7 million,

<sup>(1)</sup> Department for International Development calculations based on World Bank estimates in Global Economic Prospects 2006: Economic implications of Remittances and Migration, World Bank, Washington 14.11.2005.

<sup>(2)</sup> Landmine Monitor Report 2007: Toward a Mine-Free World.

<sup>(3)</sup> Safer World, Oxfam, IANSA report October 2007 — Africa's Missing Billions.

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- N. whereas the OECD/DAC 2007 peer review on EC Development Cooperation Policy states that the EU should make 'more systematic use of conflict analysis as part of country-level programmes and projects' to 'improve their impact and ensure they do no harm',
- O. whereas the Commission, as a follow-up to the Communication on the EU response to situations of fragility and the subsequent Council Conclusions and Parliament's resolution, has to prepare an Implementation Plan in 2009 taking into account the experience and information acquired through the 'pilot cases' and as a means of assessing the efficiency of the different EU instruments with a view to their optimisation in the area of security and development,
- P. whereas, apart from the designation of six pilot countries (Burundi, Guinea-Bissau, Haiti, Sierra Leone, East Timor and Yemen), the discussions launched between the Commission, the Council, the European Parliament and civil society as part of the follow-up to the above Commission communication on the EU response to situations of fragility have not yet made it possible to implement specific measures on the ground,
- Q. whereas European undertakings are present and have interests in conflict zones,
1. Supports 'Responsibility to Protect' as affirmed by the UN in order to reinforce rather than undermine state sovereignty and stresses that the EU and its Members States should regard themselves as bound by it; stresses that 'Responsibility to Protect' should be considered as a means to promote human security; by stressing that the primary responsibility for the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity against a population lies with the state itself, reinforces the responsibility of each government towards the protection of its own citizens; considers, however, that where governments are unable or unwilling to provide such protection then the responsibility to take appropriate action becomes the collective responsibility of the wider international community; notes further that such action should be preventive as well as reactive, and should only involve the use of coercive military force as an absolute last resort; recognises this as an important new application of the principle of human security;
  2. Demands the implementation of then UN Secretary-General Kofi Annan's declaration made in his report to the 2000 General Assembly: 'state sovereignty implies responsibility and the primary responsibility for the protection of its people lies with the state itself; where a population is suffering serious harm as a result of internal war, insurgency, or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international Responsibility to Protect';
  3. Believes that there are two phases of peace-building and state-building: the stabilisation phase where the emphasis is on security, law and order and provision of basic services; and the second phase of state-building which focuses on governance and the institutions which will deliver it; with the proviso that:
    - (a) the second phase should not take place until the country is stabilised, as institutions created before stabilisation will reflect the character of the conflict and not what the country needs for a stable and enduring peace,
    - (b) in the state-building phase it is important to compromise to conform to the norms and expectations of the citizens of the nation concerned and not the ideals of the interveners,
    - (c) as the state-building phase progresses interveners will need to hand over individual institutions to the domestic authorities; it is at this time that potential setbacks can occur and need to be accepted, provided they are not fundamental to the progress that the country is making;
  4. Highlights the importance of addressing the root causes of conflicts in EU political dialogues with third countries and in development cooperation programmes so as to develop mechanisms to provide early warning signs of failing states by looking at possible predictors or indicators of civil violence such as historic divisions, ethnic and tribal grievances, religious conflicts, inequity and poverty; in this context, stresses in particular the need to allocate new funding to adaptation and environmental protection as a means of preventing the rise of climate and environment-related conflicts;

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5. Calls the Commission to designate conflict prevention as a cross-cutting issue in development cooperation and to integrate conflict sensitivity and conflict analysis into existing and new policies, into Country and Regional Strategy Papers, and into all the relevant financial instruments for external cooperation;
6. Recalls that peace is not only the absence of war, that there is no peace without justice and that, furthermore, the end of hostilities does not necessarily result in security for men and women; also recalls the important role of women in the prevention and resolution of conflicts and in peace-building, and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security;
7. Strongly believes that every effort must be made to ensure minimum standards of basic services for those populations affected by conflict, in particular in relation to access to food, clean water and sanitation, medicines, health care (including reproductive health) and personal security; in the immediate term sustainability concerns must be subordinate to providing basic goods and services;
8. Believes that in post-conflict situations there should be coordination among peace-building, humanitarian aid and development activities, in accordance with the 'Linking Relief, Rehabilitation and Development' strategic framework and to ensure coherence in the security and development nexus;
9. Considers it necessary to take into account the gender dimension when dealing with refugees and internally displaced persons, including in the design of refugee camps;
10. Stresses the need to enhance Civil-Military Coordination; takes the view that in post-conflict situations the transition from military to civilian security must take place as soon as is practicable and that international forces should be gradually supplemented and replaced by a national and regional civilian police force, professionally trained, ensuring that high priority is given to an even-handed application of the rule of law and administrative procedures to all groups involved in the conflict;
11. Stresses the need to strike a balance between civilian and military components of development aid in order to guarantee the functioning of basic infrastructure and government services without downplaying requirements for reconstruction, rehabilitation and the relaunching of democratic and economic processes;
12. Calls for the promotion of human rights, by supporting human rights training for the army and police (including human and civil rights campaigns for affected sections of the population), the coaching of staff in colleges on international standards of policing and military police, and the creation of a code of conduct for security personnel, delineating areas of responsibility between the police and army, the creation of offices of human rights ombudsmen and human rights commissions as well as human rights training for district authorities and civil servants;
13. Stresses the essential need to continue to develop the military capacity of the European Security and Defence Policy (ESDP) in order for the EU and its Member States to be better able to contribute to the stabilisation and development of post-conflict societies;
14. Considers it vitally important that the causes of instability and the problems of post-conflict societies be tackled by a combination of civil and military measures; points out that without the security guarantees of peacekeeping forces on the ground the essential precondition for stability in conflict-torn societies (i.e. the security of individuals and their property) cannot generally be fulfilled;

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15. Stresses the importance of SSR and DDR processes as key factors for ensuring long lasting peace and sustainable development; calls on the Council and the Commission to accelerate the implementation on the ground of the EU's Policy Framework for SSR and the EU Concept for Support to DDR, with a view to increasing the relevance, coherence, and efficiency of the EU's activities in these domains; calls for increased Community funding for SSR/DDR, with a special emphasis on those countries where the EU has already deployed ESDP missions; calls for any Community-funded SSR/DDR activities meant to support ESDP operations in a conflict, or post-conflict scenario, to be taken into consideration as soon as possible in the planning steps for the operations, namely in the fact-finding phase or during the development of the Crisis Management Concepts/Concept of Operations;
16. Stresses that SSR can be an effective tool for reinforcing diplomacy and defence while reducing long-term security threats by helping to build stable, prosperous, and peaceful societies; SSR must involve re-establishing or reforming institutions and key ministerial positions that maintain and provide oversight for the safety and security of the host nation and its people;
17. Asks the EU, when supporting post-conflict SSR, to include a gender perspective by providing gender training and expertise on constitutions, elections, the police and the judiciary;
18. Takes the view that former combatant leaders must renounce violence entirely before being brought into formal institutional structures which encourage power sharing, whilst ensuring that the public and all relevant stakeholders are kept actively informed and involved in all debates concerning power sharing arrangements;
19. Stresses the importance of adopting a gender perspective when negotiating and implementing peace agreements, so as to promote the constitutional protection of women's rights;
20. Calls, due to the fact that a majority of victims in conflict situations are killed by small arms and light weapons (SALW), upon the Council and the Commission to urgently follow up on the Court of Justice decision of 20 May 2008 on Community competence in combating the proliferation of SALW <sup>(1)</sup> by accelerating the implementation of the European Strategy to combat illicit accumulation and trafficking of SALW and their ammunition, and by stepping up planning for EC funding, namely from the European Development Fund and the Stability Instrument, to be spent on SALW-related programmes on the ground; requests that multilateral and regional financial institutions take measures, where appropriate, to establish SALW programmes in the framework of reconstruction and rehabilitation efforts in post-conflict areas and in efforts to consolidate governance issues, to strengthen legislation and to improve the operational capacity of law enforcement agencies regarding SALW; calls on the Council and the Commission to continue promoting the creation of an international, legally-binding Arms Trade Treaty in all bilateral and multilateral settings;
21. Considers that the voluntary return of refugees and internally displaced people (IDPs) must be a high priority while ensuring them security in a viable livelihood, in particular by providing functional health and education services (including literacy campaigns for women) and job opportunities, and that it must take place by means of inter-group dialogue, peace education, international accompaniment, prejudice reduction and diversity training, ex-combatant-community engagement, processes for handling land claims and trauma healing; provided that the ethnic or religious profile is compatible, considers that IDPs should be spread across the country and resettled in their original villages or towns and not concentrated in large groups which can lead to conflict and violence;
22. Stresses the need for women to resume or further their education and training post-conflict; considers, in this connection, that the resumption of teaching should be actively promoted during nation-building processes;

<sup>(1)</sup> Case C-91/05, Commission v Council.



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23. Strongly emphasises the need to consult and support local women's organisations and international networks of women for peace; recommends the provision of political and financial support, training, capacity-building and technical assistance, including on peace negotiations and on non-violent conflict resolution;
24. Is of the opinion that Member States have a moral obligation to shelter refugees fleeing from conflict areas; believes that this obligation can only be fulfilled on the basis of burden-sharing between Member States; further believes that Member States should actively assist refugees wishing to return to their countries of origin after the end of violent conflict;
25. Affirms the vital importance of fair migration policies towards developing countries; notes that migration can be turned into a positive force in the development process, notably by means of remittances sent by migrants living in the EU, by curtailing the brain drain, by facilitating return migration and by preventing trafficking in human beings;
26. Stresses that action must be taken to promote family reunification and reintegration of children affected by armed conflict and to ensure access to educational programmes, vocational training and psychological support, taking into account the specific needs of girls;
27. Calls for the effective implementation of the Commission's proposal for DDR of former combatants; including the reintegration of combatants into civil society by the provision of food, tents, blankets, medical support and civilian clothes; the transportation of ex-soldiers to their community of origin or destination of choice; support retirement programmes for political or military officers, re-housing of ex-soldiers, and salary support schemes; civic education classes for ex-soldiers and psychological regeneration programmes for ex-combatants with specific allocation of additional resources for employment schemes and job creation programmes;
28. Points out that DDR programmes should include specific provisions for female ex-combatants;
29. Stresses that action to combat both the use of child soldiers and the recruitment of girls into the armed forces and their subsequent subjection to sexual abuse ties in with action to improve the daily lives of women living in regions in which post-conflict peace-building and nation-building are in progress;
30. Takes the view that DDR should also aim to achieve social and economic development, and provide financial assistance programs intended to meet immediate needs;
31. Believes that local ownership of the peace-building process is essential to ensure long-term stability;
32. Considers that international donors should take account of regional and local circumstances when devising a policy of reconstruction for stability and democracy, starting from the experience acquired in promoting economic development in post-conflict societies;
33. Stresses that a suitable reconciliation strategy needs to take account of the role of women in peace consolidation processes; emphasises that reconciliation programmes must incorporate the specific circumstances of children affected by armed conflict;
34. Believes that state legitimacy can only be built through good and effective governance; stresses that institutions, electoral processes, voter registration and electoral rolls, voter identification and anti-corruption mechanisms must be as transparent and accountable as possible, as they are a prerequisite for defending the rule of law, human rights, democratic institutions, and the dignity of the population as well as for economic development, investment and trade;

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35. Considers such factors as the rule of law, sound money, a free market, an efficient and competent civil service, an independent judiciary, and legislative and executive branches free from corruption, to comprise the means by which individuals and communities, through their industry and initiative, can truly increase the wealth of their nations;

36. Calls for the creation of one-stop-shop boards of investment to foster priority sectors where foreign direct investment can be attracted, creating jobs outside of the traditional agricultural sectors by supporting the development of liberal investment codes and tax-free industrial zones;

37. Calls on the Commission to create a deregulation unit which can advise countries emerging from conflict on how to structure their economic infrastructure so as to remove bureaucratic controls which stop or delay the creation of small businesses, the opening of bank accounts, the registration of land and companies; the deceleration of venture capitals being applied where possible and tax incentives for enterprise formation should be applied particularly through budget support programmes;

38. Considers it crucial to involve women in economic activities in post-conflict societies in order to support their socio-economic and business empowerment, and stresses the positive role played by micro-credit;

39. Strongly believes that local ownership of EU development cooperation can be strengthened through involvement of national parliaments, including mutual interaction and capacity building between the European Parliament and the parliaments of partner countries; including Information and Communications Technology support systems, technology capacities to create state-of-the-art voter rolls, the provision of ID cards where birth registrations and other citizenship supporting documents are unavailable;

40. Stresses the need to aid local authorities, providing suitable training and sharing experiences; recalls, in this connection, the European Parliament's commitment to the principles and practices of parliamentary democracy;

41. Stresses that, when elections are held in a post-conflict country, the participation of women should be supported through specific programmes and with quotas at all levels;

42. Stresses the importance of independent monitoring of transparency and accountability in the use of resources, which can play an important role in post-conflict situations if re-invested in state-building; also underlines the importance of fighting all forms of waste, fraud and corruption, through adequate anti-corruption mechanisms, with the vigilant support of civil society;

43. Emphasises the need to move forward the implementation of the United Nations Convention against Corruption, to prevent sources of illicit finance from fuelling conflict and endangering the stabilisation of post-conflict situations, since corruption renders institutions ineffective, amplifies social marginalisation, distorts decision-making and disrupts the provision of basic services;

44. Underlines that support to local communities, families, civil society organisations, including women's organisations, micro-credit organisations and local networks are preconditions for any successful development policy; and therefore calls on the Commission and Member States to give political and financial support to local peace and human rights actors, including during times of crisis, particularly through the EU Stability Instrument and its Crisis Response component;

45. Stresses that, in post-conflict situations, registration of land titles and regularisation of land ownership needs to be carried out in accordance with international human rights law, to prevent governments, private companies or ruling elites from illegally appropriating land, often at the expense of the poorest and most vulnerable, including returnees and IDPs; further stresses that efforts must be made to strengthen courts so they can better enforce property and commercial law, especially in countries where women have a diminished legal status or are denied basic property rights;

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46. Reiterates its commitment to protecting the rights of women and children in post-conflict situations with the ultimate aim of taking the necessary measures for the empowerment of women — an indispensable requirement for the attainment of lasting peace and stability;

47. Considers that many developing countries possess the basic natural resources to take care of their development yet poor management of and corrupt practices related to natural resources such as oil, water, timber and diamonds can drive countries back to the conflict cycle; deplores the involvement of various (local, regional, international and transnational) actors in the misappropriation and exploitation of these resources; urges Member States to promote and support good governance of all natural resources as well as to take action against exploitation and trafficking, especially where it contributes to the outbreak, escalation or continuation of armed conflict;

48. Recognises the achievements of the Kimberley Process, the Extractive Industries Transparency Initiative and Forest, Law Enforcement, Governance and Trade and calls for them to be strengthened and more effectively implemented and enforced;

49. Reiterates the conclusions of the paper on Climate Change and International Security, presented on 14 March 2008 to the European Council by the High Representative of the EU and the European Commission <sup>(1)</sup>, warning that climate change threatens to overburden states and regions of the world which are already fragile and conflict-prone, creating new immigration flows and intensifying security risks for the EU; urges the Commission to take climate change considerations into account in its peace-building efforts;

50. Considers that justice for victims of conflict is essential and that national courts, as long as the judicial system is functioning, independent and impartial, may be better placed than international war crimes tribunals to ensure ownership of national judicial processes and punishment of perpetrators; in this framework proposes, in post-conflict contexts, to explore the possibility of carrying out a mapping of past human rights violations perpetrated during the conflict;

51. Calls for the strengthening of judicial systems by training judges, general prosecutors, conferences on judicial reform, independent systems for judicial appointments, proper remuneration of judicial personnel, provision of equipment for the courts, improved court administration, record keeping, budget and personnel management and acquisition of modern technology including computers for case tracking;

52. Calls for legal aid for vulnerable groups, ethnic minorities, landless peasants and other marginalised groups, and paralegal training to increase access to the judicial system provided by experienced NGOs;

53. Considers it crucial to end the impunity of gender-based crimes of violence and to exclude these crimes, where feasible, from amnesty provisions, and to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice; given the situation of disadvantage that women and children in many societies have in accessing justice, considers that special arrangements should be made whenever necessary;

54. Emphasises the need for women who have suffered from sexual violence to be granted full access to sexual and reproductive health services and to sensitisation programmes which will support those women in tackling the stigmas they face;

55. Welcomes the adoption of UN Security Council resolution 1820, in particular its recognition that sexual violence is a threat to international peace and security;

56. Stresses the importance of taking into consideration the special needs of children, and in particular girls, in post-conflict situations, in particular in respect of education;

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<sup>(1)</sup> S113/08.

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57. Commends the interaction between the EU and the International Criminal Court (ICC); stresses that EU support is essential for the enforcement of the ICC mandate; believes that it is vital that all states should sign and ratify the Rome Statute of the ICC in order to make the ICC system more operational, coherent and consistent; urges the EU and AU Member States to address the implementation of all warrants of arrest issued by the ICC in a consistent way immediately in all conflict situations;

58. Urges the Member States to continue the fight against impunity as the most effective means of preventing future human rights abuses including by supporting the operation of internationally established tribunals;

59. Stresses that sustainable peace is in many ways contingent on community-based involvement and ownership of the peace process — a process which can only be legitimate and succeed if women are equally involved in their important social function and their decisive role in food production and family welfare in developing countries in particular; bearing in mind that women and children account for 80 % of refugees, calls for particular support to be provided for women and for women to be recognised as having a vital role to play in promoting peace and stability, and stresses that the role of the international community in supporting civil society networks that link local, national, and international initiatives is crucial to the peace process;

60. Calls for the establishment of standing Peace Commissions that include influential members of all contending parties so as to pre-empt eruptions of large scale violence;

61. Believes that relevant civil society organisations can be used as facilitators for dialogue among conflicting groups when twinned with training in nonviolent conflict resolution and peace education; supports the creation of opportunities for dialogues by arranging national conferences, round table discussions between contending parties, small group contact meetings at grass roots level, mediation training for local NGOs and community elders, and leaders of traditional institutions;

62. Calls on Member States in pursuing development projects to first appoint a lead partner from among themselves to streamline reporting mechanisms (even if the funds for the project come from a different Member State) to achieve donor coordination and coherence; including the establishment of accounting standards for disclosure requirements in respect of national parliaments, local authorities and international organisations;

63. Considers that action should be taken to foster a greater female presence and participation in the media and all public forums enabling women to put their views across;

64. Recalls that birth registration is a fundamental human and citizenship right; stresses that birth registration is of a crucial importance particularly during and in the aftermath of armed conflict as it helps to protect children against violation of their rights; and must be considered a core development issue;

65. Stresses the need for a conflict-sensitive approach throughout the entire cycle of planning, implementing, monitoring and evaluating of development programmes, in order to maximise their positive and minimise their negative impacts on the conflict dynamics; emphasises the importance of systematically carrying out conflict analysis and understanding the key drivers of conflicts; considers that the introduction of benchmarks is a useful tool in the evaluation of the impact of development cooperation actions;

66. Calls for the conflict zone's neighbouring states to be actively involved in the plan for post-conflict development and reconstruction, together with the international community;

67. Calls on the Council and the Commission to adopt a regional approach to tackle the situation in individual countries;

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68. Intends to continue to take an active part in the work organised by the Commission as part of the follow-up to its abovementioned communication on the EU response to situations of fragility; draws the attention of the Council and Commission to the fact that it is now urgent that this work, which has been too slow, might swiftly lead to concrete actions to be taken on the ground in such key areas as health and education, and calls on the Commission to keep the European Parliament fully informed of further steps undertaken with regard to the conclusions of country case studies and particularly in terms of the use of these findings for the identification and design of subsequent actions;

69. Considers it necessary for all EC delegations in third countries to include a gender focal point with an adequate mandate, skills and resources;

70. Stresses the urgent need for the populations in countries that have become fragile to see positive developments in their situation and in their country's situation, and calls on the Council and Commission not to neglect the visibility of actions carried out on the ground;

71. Supports the EU Programme for the Prevention of Violent Conflicts and the security and development measures envisaged in the EU Action Plan for 2009, and urges the Commission to attach high priority to the implementation of measures linked to peace-building;

72. Stresses the importance of capacity building of EC staff to implement conflict-sensitive programming through specialised guidance, in particular by developing, for relevant staff, a short and tailor-made guide on conflict sensitivity which builds upon the Peace and Conflict Impact Assessment Systems and the Resource Pack on Conflict Sensitivity;

73. Considers that, in order to effectively address the challenge of post-conflict transition, interventions must be timely, flexible, and predictable;

74. Stresses that all EU missions (including mediation and negotiation teams, and police and peace-keeping forces) should include gender advisers, gender mainstreaming training and at least 40 % of women at all levels, including at the most senior levels;

75. Calls on the Commission to carry out research on gender mainstreaming in EU external missions;

76. Points out the need to mainstream a gender perspective into peace research, conflict prevention and resolution, peacekeeping operations, post-conflict rehabilitation and reconstruction, financial instruments, Country/Regional Strategy Papers and in the planning of all external interventions;

77. Supports the office of EU Special Representatives as the EU's principal tool to help mediate political settlements and to foster lasting political stability in post-conflict societies;

78. Encourages the EU to develop best practices for issues that require broad cooperation among political, military, humanitarian and developmental actors in the areas of conflict prevention, mediation, peacekeeping, respect for human rights, the rule of law, humanitarian assistance and long-term reconstruction and development;

79. Calls for the development of an EU Action Plan on the implementation of the UNSCR 1325 and asks the Commission to urge partner countries and EU Member States to develop National Action Plans; suggests a review of EU guidelines on the defence of human rights and ESDP missions in order to ensure full compliance with UNSCR 1325 and UNSCR 1820;

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80. Stresses that the Commission has an obligation to support the efforts of partner countries to develop democratic domestic accountability capacities (parliamentary control and audit capacities) where Community assistance is delivered via budget support; urges the Commission to fulfil this obligation in a more robust and consistent manner; stresses that empowered parliamentary control entities and audit institutions are a major factor for achieving a sustainable impact of the EU budget support; calls for the development of civil society monitoring and oversight mechanisms, so that they are empowered to monitor the use and impact of EU budgetary support;
81. Calls on investment banks, including the European Investment Bank, to ensure that their loans and investments in post-conflict countries, especially in resource-rich countries, comply with human rights and environmental standards and do not fuel tensions;
82. Praises the work of the newly established UN Peacebuilding Commission; points out the need to cooperate with international partners, notably the United Nations, in aid-related issues; urges the Member States to ensure that the UN system is properly resourced and held to account for the support it provides to in-country processes involving the UN Peacebuilding Commission and other UN bodies;
83. Stresses that development assistance is an extremely important element in consolidating peace and preventing conflict in fragile states, but development assistance and assistance towards conflict resolution must not include any military resources or components;
84. Recommends the enforcement of the code of conduct for UN personnel serving in post-conflict zones and calls for zero-tolerance of sexual violence committed by peacekeepers or NGO staff;
85. Instructs its President to forward this resolution to the Council, the Commission, the governments and the parliaments of the Member States and the candidate countries, the Secretary-General of the UN, the UN Peacebuilding Commission, the AU Commission, the AU Executive Council, the Pan African Parliament, and the ACP-EU JPA.

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## Zimbabwe

P6\_TA(2008)0640

### European Parliament resolution of 18 December 2008 on the situation in Zimbabwe

(2010/C 45 E/15)

*The European Parliament,*

- having regard to its previous resolutions on Zimbabwe, most recently that of 10 July 2008 on the situation in Zimbabwe <sup>(1)</sup>,
- having regard to Council Common Position 2008/135/CFSP of 18 February 2008 renewing restrictive measures against Zimbabwe <sup>(2)</sup> which renewed, until 20 February 2009, the restrictive measures against Zimbabwe imposed under Council Common Position 2004/161/CFSP of 19 February 2004 <sup>(3)</sup>, to Commission Regulation (EC) No 1226/2008 of 8 December 2008 amending Council Regulation (EC) No 314/2004 concerning certain restrictive measures in respect of Zimbabwe <sup>(4)</sup>, and to the European Council conclusions of 11-12 December 2008 on Zimbabwe, in which serious concerns were expressed over the worsening humanitarian situation in Zimbabwe,
- having regard to the resolution on the situation in Zimbabwe adopted by the ACP-EU Joint Parliamentary Assembly on 28 November 2008,

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<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0364.

<sup>(2)</sup> OJ L 43, 19.2.2008, p. 39.

<sup>(3)</sup> OJ L 50, 20.2.2004, p. 66.

<sup>(4)</sup> OJ L 331, 10.12.2008, p. 11.



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- having regard to the report of the Pan-African Parliament Election Observer Mission on the harmonised elections held in Zimbabwe on 29 March 2008,
  - having regard to the resolution on Zimbabwe adopted at the 11th African Union Summit, held in Sharm el-Sheikh on 30 June-1 July 2008,
  - having regard to the agreement of 15 September 2008 between the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two formations of the Movement for Democratic Change (MDC) on resolving the challenges facing Zimbabwe,
  - having regard to the Southern African Development Community (SADC) Treaty and the Protocols thereto, including the SADC Electoral Protocol,
  - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas Zimbabwe is facing a humanitarian crisis of massive proportions, with 5,1 million people, almost half the population, facing hunger; whereas an outbreak of cholera, the result of the breakdown of basic water and sanitation services, has killed at least 783 people and infected over 16 400 people in Zimbabwe, and whereas more than 300 000 people seriously weakened by lack of food are in grave danger from the epidemic,
- B. whereas the Zimbabwean authorities have made it clear that they cannot end the humanitarian crisis and will not end the violent repression of their opponents; whereas there is a clear link between the humanitarian catastrophe and the crisis of governance provoked by the failure of Robert Mugabe to conduct fair and credible elections and to respect the political agreement of 15 September 2008 on the principle of forming a government of national unity with a view to ending the crisis, achieved despite the mediation attempts of President Thabo Mbeki of South Africa,
- C. whereas the inflation rate is estimated to be in the region of several billion per cent — the highest in the world — and whereas 80 % of the population live on less than USD 1 a day, without access to basic commodities such as food and water,
- D. whereas, according to the international medical humanitarian organisation, Médecins Sans Frontières, at least 1,4 million people are at risk of contracting cholera if the outbreak is not contained by addressing its root causes; whereas the outbreak is spreading to South Africa and Botswana,
- E. whereas the combination of economic, political and social crises has taken a particular toll on women and girls, and whereas they are particularly at risk of cholera infection because of their responsibility for the home-based care of the sick,
- F. whereas life expectancy in Zimbabwe has dropped from 60 years for both sexes to 37 years for men and 34 for women in the past decade; whereas 1,7 million people are now living with HIV in Zimbabwe,
- G. whereas behind the political crisis and health emergency there is a worsening human rights crisis in Zimbabwe, the most recent development being the unprecedented spate of abductions of human rights defenders, such as Jestina Mukoko, whose disappearance was part of a pattern of harassment and intimidation of human rights activists, carried out by people suspected of working on behalf of the Zimbabwean authorities,
- H. whereas, according to Unicef, only an estimated 40 % of the country's teachers are working, and only a third of pupils reporting for classes; whereas teachers, like doctors and nurses, have been on periodic strikes and have been violently repressed by police for exercising their right to demonstrate peacefully,



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- I. whereas 'The Elders', comprising former UN Secretary-General Kofi Annan, former US President Jimmy Carter and the advocate of women's and children's rights, Graça Machel, have been refused entry into Zimbabwe,
- J. whereas a number of African leaders, including Archbishop Desmond Tutu, Botswana's President, Ian Khama, and Kenya's Prime Minister, Raila Odinga, have called for Mr Mugabe to step down,
- K. whereas on 8 December 2008, during a celebration of the 60th anniversary of the Universal Declaration of Human Rights, President Sarkozy of France, on behalf of the EU, called on Mr Mugabe to step down, stating that he 'has taken the people of Zimbabwe hostage' and that 'the people of Zimbabwe have the right to freedom, security and respect',
- L. whereas Zimbabwe is close to meeting the criteria for invoking the declaration, endorsed at the UN Summit in September 2005, that there is an international 'responsibility to protect' people facing crimes against humanity,
  1. Expresses its deep concern at the catastrophic humanitarian situation in Zimbabwe, the cholera epidemic, the hunger and the complete refusal of the Mugabe regime to respond positively to the crisis; calls on the Council and Commission to reaffirm their commitment to the Zimbabwean people through a substantial, long-term programme of humanitarian aid;
  2. Notes that the European Union has just released EUR 10 million in aid and calls on the Zimbabwean authorities to lift all restrictions on humanitarian aid agencies and to ensure that humanitarian aid can be delivered in accordance with the principles of humanity, neutrality, impartiality and independence;
  3. Strongly supports the efforts of the abovementioned Elders delegation to ease Zimbabwe's humanitarian crisis; regards it as totally unacceptable that the members of this delegation were denied an entry visa by Mugabe's regime, since they wished to use their influence to increase the immediate and longer-term flow of assistance to the country and so end the terrible suffering of the people of Zimbabwe;
  4. Firmly condemns the continuing violence perpetrated by the Mugabe regime against members and supporters of the MDC; is outraged by the spate of recent abductions of human rights defenders and calls for the immediate release of Jestina Mukoko, the director of the Zimbabwe Peace Project (ZPP), of Zacharia Nkomo, the brother of the leading human rights lawyer Harrison Nkomo, of Broderick Takawira, a provincial coordinator of the ZPP, of Pascal Gonzo, a driver at ZPP, and of a number of members of the MDC and civil society activists, and calls for the perpetrators of these abductions to be held to account;
  5. Welcomes the recent extension of the Union's list of banned individuals in the Mugabe regime, and calls for further names of key Mugabe loyalists to be added thereto, including that of Florence Chitauro, a former senior ZANU-PF minister, who is now believed to be living in London, refusing to condemn Mr Mugabe and travelling to and from Zimbabwe without hindrance;
  6. Calls on the UN Security Council to consider imposing targeted sanctions (travel bans and asset freezes) on Mr Mugabe and persons actively engaged in violence or human rights infringements; in particular calls on China, Russia and South Africa to support strong measures against the Mugabe regime in the UN Security Council and to indicate to African governments that they are no longer willing to lend any support to the Mugabe regime;
  7. Applauds the integrity of the governments of Kenya, Botswana and Zambia for speaking out against Mr Mugabe, and expresses its profound disappointment that so many other African governments are still prepared to turn a blind eye to the evils of his regime;

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8. Stresses the Zimbabwean people's desperate need for political change and condemns Mr Mugabe's refusal to implement the agreement he signed on 15 September 2008 to hand over key ministries to Morgan Tsvangirai's party, or to usher in political reform;
9. Expresses grave concern that the desperate need for immediate, radical and democratic change for the Zimbabwean people continues to be frustrated by the oppressive, manipulative, and self-serving Mugabe regime;
10. Urgently calls for increased pressure by African countries and regional institutions, including the SADC and, in particular, by the African Union as a guarantor of the 15 September 2008 agreement, as well as by eminent Africans, to secure a fair, just solution to the Zimbabwe situation based on the credible elections held in March 2008, and to monitor any political agreement in a balanced way;
11. Calls on the Council to encourage the African Union to prepare contingencies for active intervention, in order to protect the civilian population of Zimbabwe;
12. Calls on the Council to remain vigilant in relation to the possible consequences for the region of ZANU-PF's deliberate neglect and misgovernance that is destabilising Zimbabwe;
13. Expresses deep concern at the situation of Zimbabwean refugees in the region and deplores the acts of violence against Zimbabwean refugees in neighbouring countries; calls on the Commission to support those neighbouring countries by implementing financial and material assistance programmes for the refugees;
14. Strongly appeals to all stakeholders and the international community to be prepared to support the economic and social recovery of Zimbabwe once a government has been formed which genuinely reflects the will of the Zimbabwean people at all levels and once there are tangible signs of a return to respect for democracy, human rights and rule of law;
15. Calls on the Council and the Member States to step up their diplomatic action in Africa in order to secure active support for change in Zimbabwe;
16. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the governments of the G8 countries, the governments and parliaments of Zimbabwe and South Africa, the Secretary-General of the Commonwealth, the Secretary-General of the United Nations, the chairpersons of the Commission and Executive Council of the African Union, the Pan-African Parliament and the Secretary-General and governments of the SADC and its Parliamentary Forum.

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## Nicaragua

P6\_TA(2008)0641

### **European Parliament resolution of 18 December 2008 on the attacks on human rights defenders, civil liberties and democracy in Nicaragua**

(2010/C 45 E/16)

*The European Parliament,*

— having regard to the UN Universal Declaration of Human Rights of 1948,

— having regard to the International Covenant on Civil and Political Rights of 1966,

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- having regard to the Political Dialogue and Cooperation Agreement between the European Community and its Member States, of the one part, and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, of the other part, of 15 December 2003 and to the Framework Cooperation Agreement between the European Economic Community and the Republics of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama <sup>(1)</sup>,
  - having regard to the EU guidelines on human rights defenders,
  - having regard to the reports of the EU expert team on the municipal elections of 9 November 2008 in Nicaragua,
  - having regard to the statements of Commissioner Ferrero-Waldner on the events in Nicaragua following the municipal and regional elections of 9 November 2008,
  - having regard to the negotiations under way for the signature of an Association Agreement between the European Union and the countries of Central America,
  - having regard to the press release of the EU-27 of 22 October 2008 concerning human rights defenders and organisations,
  - having regard to the sixth round of negotiations for the EU-Central America Association Agreement, to be held in Brussels on 26 and 27 January 2009,
  - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas there have been allegations of fraud surrounding the results of the municipal elections of 9 November 2008 raised in the reports of the EU expert team, which highlight the unwillingness of the Nicaraguan authorities to hold a genuinely democratic vote; whereas this has been accompanied by violence, targeted in particular at the media, and has led to polarisation and conflicts,
- B. whereas the United Nations, the European Union, the United States and several Nicaraguan non-governmental organisations (NGOs) have expressed concern over the transparency of the elections,
- C. whereas the resolutions of the Supreme Electoral Council of 11 June 2008 withdrew the legal standing of the Sandinista Renewal Movement and declared that the Conservative Party did not meet the prerequisites for contesting the November 2008 municipal elections, thanks to which those two parties were unable to participate,
- D. whereas there have been repeated attacks and acts of harassment which have been inflicted on the human rights organisations and their members, for some months now as well as on journalists and media representatives, by individuals, political forces and bodies linked to the state authorities,
- E. whereas the Nicaraguan Vice-Minister for Cooperation proposed a 'joint taxation' mechanism in respect of the financial support received by the NGOs and an investigation of diverse NGOs for supposed non-fulfilment of legal requirements, as in the case of the charges of 'triangulation of funds' against 17 human rights organisations,
- F. whereas there have been criminal investigations against those defending sexual and reproductive rights, including those who have supported a girl who had been raped and was given an abortion in order to save her life at a time when therapeutic abortion was not a criminal offence,
- G. whereas the development and consolidation of democracy and the rule of law, as well as respect for human rights and fundamental freedoms, must be an integral part of the EU's foreign policy,

<sup>(1)</sup> OJ L 63, 12.3.1999, p. 39.

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- H. whereas the European Union and its partners, when subscribing to agreements with third countries that include a human rights clause, are assuming responsibility for ensuring compliance with international human rights standards, and whereas such clauses are reciprocal by nature,
- I. whereas Nicaragua has fallen into conditions of worsening poverty over the last two decades,
1. Regrets deeply the way in which the local elections of 9 November 2008 were conducted, and believes that the results lack all democratic legitimacy;
  2. Regrets the fact that the climate of suspected fraud in some municipalities has provoked demonstrations and clashes between supporters of different parties, leaving a number of people injured and aggravating an already profound political crisis;
  3. Calls on the government of Nicaragua to take urgent measures to pacify the existing situation, and asks the Nicaraguan authorities to respect the work of the human rights organisations;
  4. Regrets the numerous attacks and acts of harassment to which human rights organisations and their members, independent journalists and the representatives of the Commission delegation in Nicaragua have been subjected to in the last few months, by individuals, political forces and bodies linked to the state;
  5. Calls on the political parties to condemn their supporters' acts of violence;
  6. Regrets the fact that two political parties were unable to take part in the local elections, and expresses its concern regarding the progress of democratic consolidation and governance in Nicaragua, especially with respect to the processes of inclusion and active participation;
  7. Urges the Nicaraguan government and the state authorities to protect freedom of expression and the independence of the judiciary and thus ensure preservation of their country's democratic foundations, and to ensure that Nicaragua ratifies the Rome Statute setting up the International Criminal Court as soon as possible;
  8. Welcomes the press release by the EU-27 of 22 October 2008, condemning the attacks on human rights defenders and organisations;
  9. Recalls that in the negotiations on the Association Agreement between the European Union and the countries of Central America Nicaragua must be reminded of the need to respect the principles of rule of law, democracy and human rights, as defended and promoted by the European Union;
  10. Calls on the EU Member States to ensure that the situation in Nicaragua is placed on the agenda of all meetings with the Nicaraguan authorities, whether bilateral or multilateral;
  11. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Secretary-General of the Organization of American States, the Euro-Latin American Parliamentary Assembly, the Central American Parliament, and the Government and Parliament of the Republic of Nicaragua.
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## **Attacks on human rights defenders in Russia and the Anna Politkovskaya murder trial**

P6\_TA(2008)0642

### **European Parliament resolution of 18 December 2008 on attacks on human rights defenders in Russia and the Anna Politkovskaya murder trial**

(2010/C 45 E/17)

*The European Parliament,*

- having regard to its previous resolutions on Russia, and in particular to that of 25 October 2006 on EU-Russia relations following the murder of the Russian journalist Anna Politkovskaya <sup>(1)</sup> and that of 19 June 2008 on the EU-Russia Summit of 26-27 June 2008 in Khanty-Mansiysk <sup>(2)</sup>,
  - having regard to the Partnership and Cooperation Agreement between the European Union and the Russian Federation, which entered into force in 1997 and has been extended pending its replacement by a new agreement,
  - having regard to the ongoing negotiations for a new agreement providing a new comprehensive framework for EU-Russia relations, and to the re-launch of those negotiations during the last EU-Russia Summit held in Nice on 14 November 2008,
  - having regard to the declaration by the Presidency on behalf of the European Union on the search of the offices of the Memorial organisation in St Petersburg on 4 December 2008,
  - having regard to the 2008 report of the Office for Democratic Institutions and Human Rights (ODIHR) on human rights defenders,
  - having regard to Rule 115(5) of its Rules of Procedure,
- A. whereas Russia is a member of the Council of Europe and of the Organization for Security and Cooperation in Europe (OSCE) and, as such, has committed itself to fully respecting human and citizens' rights,
- B. whereas there are serious concerns about the situation of human rights defenders and about difficulties faced by non-governmental organisations active in the promotion of human rights,
- C. whereas numerous complaints by Russian citizens have been addressed to the European Court of Human Rights in Strasbourg, whose rulings substantiate the complaint that there are serious breaches of human rights in a number of cases, as well as arbitrariness by the Russian state authorities,
- D. whereas on 28 October 2008 Otto Messmer, leader of the Russian Jesuit order, and Victor Betancourt, an Ecuadorean priest, were brutally murdered in their Moscow apartment,
- E. whereas in mid-October 2008 a leading Russian human rights lawyer, Karinna Moskalenko, who has successfully represented 30 Russian citizens in the European Court of Human Rights, was the victim of an attempt to poison her by placing mercury in her car in Strasbourg,
- F. whereas on 31 August 2008 Magomed Evloyev, the owner of an Ingush independent website, was killed while in police custody,

<sup>(1)</sup> OJ C 313 E, 20.12.2006, p. 271.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0309.

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- G. whereas numerous attempts on the lives of human rights defenders, including the Ingush opposition leader Akhmed Kotiev, the human rights defender Zurab Tsechoev from Ingushetia, the human rights activist Dmitrii Kraiukhin from Orel and the human rights activist Stanislav Dmitrievski from Nizhni Novgorod, were recorded between July and October 2008,
- H. whereas on 4 December 2008 the St Petersburg offices of the Memorial Research and Information Centre, which, for the past 20 years, has been conducting research into Stalinist repression in the Soviet Union, were raided by masked men from the Russian Prosecutor-General's Office; whereas during the raid hard drives and CDs containing the entire database covering thousands of victims were taken away; whereas no inventory of the confiscated documentation exists; whereas Memorial's lawyers were prevented from entering the premises,
- I. whereas the criminal investigation and trial following the murder of the journalist Anna Politkovskaya raise serious concerns with regard to transparency and respect for the rule of law; whereas this brutal killing has not yet been fully investigated and solved in a satisfactory way,
- J. whereas the Russian authorities remain uncooperative in the investigations into the murder of Alexander Litvinenko in London by poisoning with radioactive polonium,
- K. whereas the police brutally thwarted an anti-Kremlin protest demonstration organised by Garry Kasparov's opposition group Other Russia on 14 December 2008 in Moscow, seizing demonstrators and dragging them into trucks; whereas some 100 of the demonstrators were arrested,
- L. whereas on 3 December 2008 17 Russian human rights groups called on the EU in Vienna not only to further enhance the role of EU-Russia human rights consultations as a matter of urgency, but also to raise the most urgent cases at EU-Russia summit meetings,
1. Vehemently condemns the attacks on human rights defenders in Russia, including lawyers who are representing citizens' rights, and calls on the Russian authorities at all levels to protect and guarantee their physical integrity;
  2. Points out that human rights, the rule of law and democracy must remain core issues for the further development of EU-Russia relations; stresses the importance of the continuous exchange of views on human rights with Russia as part of the EU-Russia human rights consultations, and calls for the format of such meetings to be improved so as to involve relevant ministries, the judiciary and representatives of Russian civil society;
  3. Takes the view that respect for human rights, democracy and the rule of law should be an integral part of the new framework agreement now being negotiated;
  4. Calls on the Russian authorities to comply with all the rulings of the European Court of Human Rights and to ratify the protocol on the Court's reform without delay; urges the Russian Federation also to ratify Additional Protocol 14 to the European Convention on Human Rights;
  5. Condemns the search of the offices of the Memorial organisation in St Petersburg on 4 December 2008; asks the Russian authorities and the St Petersburg Public Prosecutor's Office to return without delay to the Memorial Research and Information Centre eleven hard drives and CDs that were taken from the centre during a police raid on 4 December 2008 and that contain invaluable data on more than 50 000 victims of Stalinist-era repression;

**Thursday 18 December 2008**

6. Draws attention to the growing trends of violence which, according to the Moscow Bureau for Human Rights, have resulted in more than 100 people being killed in 2008 on the basis of their race, nationality, religion or sexual orientation, and to the absence of effective condemnation of such hate crimes by Russian authorities;
  7. Notes with concern recent moves to rehabilitate the Stalinist regime, and stresses that it is only by coming to terms with its tragic past that Russia can establish a true democratic culture;
  8. Is alarmed at the attempt made in October 2008 on the life of human rights lawyer Karinna Moskalenko and her family, and appeals to both the French and Russian authorities to identify the perpetrators and their motives;
  9. Is convinced that the activities of human rights lawyers acting in cases involving alleged human rights abuses, who have to take great personal risks in continuing their work, should be afforded the highest respect, protected by the state and supported by the international community;
  10. Remains extremely concerned about the legislation on extremism, which can have an effect on the free flow of information and can lead the Russian authorities further to restrict human rights defenders' right to free expression;
  11. Notes that it has been two years since the Russian independent journalist Anna Politkovskaya, who has become a symbol for freedom of the press, was murdered; draws attention to its abovementioned resolution of 25 October 2006 and pays tribute to the courage and work of this symbol of honesty and conscientiousness, whose life work needs continued support and acknowledgement;
  12. Expresses its dismay at the trial being open only to a limited number of journalists, and closed to television journalists; calls on the court fully to respect the jury's decision and to open the proceedings to all journalists and media; expects the court to establish not only who committed and assisted in the murder of Anna Politkovskaya but also who ordered it;
  13. Welcomes the establishment in 2006 of the ODIHR's focal point for human rights defenders, which monitors the situation of defenders throughout the territory covered by the OSCE; strongly encourages the EU institutions to give practical expression to their support for human rights defenders by setting up a focal point for defenders in all three institutions, so as better to coordinate their actions with the other international and European organisations;
  14. Expresses its concern at the continuing large-scale abuses against conscripts in the Russian armed forces, and calls on the Russian authorities to investigate and prosecute those responsible and to uproot abusive practices within the armed forces and demonstrate a determination to modernise the prevailing culture;
  15. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the government and parliament of the Russian Federation, the OSCE and the Council of Europe.
-



## II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS,  
BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

**Amendment of the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management**

P6\_TA(2008)0617

**European Parliament decision of 18 December 2008 on a draft amendment of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (2008/2320(ACI))**

(2010/C 45 E/18)

*The European Parliament,*

- 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 <sup>(1)</sup>, and in particular point 25 thereof,
  - having regard to the Commission proposal for a draft amendment 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)0834),
  - having regard to its resolution of 18 December 2008 on a draft amendment of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management <sup>(2)</sup>,
  - having regard to Rules 120(1) and 43(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Constitutional Affairs (A6-0509/2008),
- A. whereas the Committee on Budgets recommends approval of the proposed amendment of the abovementioned Interinstitutional Agreement of 17 May 2006,
- B. whereas the proposed amendment does not give rise to any concern with regard to the Treaties and Parliament's Rules of Procedure,

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0618.

Thursday 18 December 2008

1. Approves the amendment of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (2007-2013) annexed to this decision;
2. Instructs its President to forward this decision and the annex hereto to the Council and the Commission, for information.

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ANNEX

AMENDMENT 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, the Council of the European Union and the Commission of the European Communities,

Whereas:

- (1) The recent developments in food and commodity prices have raised concerns especially as regards their impact for developing countries. The Commission proposed to create a new facility for rapid response to soaring food prices in developing countries <sup>(1)</sup> and the two arms of budgetary authority, at the conciliation meeting of 21 November 2008, have agreed to provide part of the financing for this facility from the Emergency Aid Reserve.
- (2) Since the remaining amount of the Emergency Aid Reserve for the year 2008 is insufficient to cover the needs of the Food Facility, an increase is necessary in order to enable the Reserve to contribute to the Food Facility financing.
- (3) In order to address that exceptional situation, the Emergency Aid Reserve should be increased to EUR 479 218 000 in current prices, uniquely and exceptionally for the year 2008.
- (4) Point 25 of the Interinstitutional agreement on budgetary discipline and sound financial management should therefore be amended accordingly,

HAVE AGREED AS FOLLOWS:

In point 25 the following sentence shall be added to the first subparagraph:

‘This amount shall be exceptionally increased to EUR 479 218 000 for the year 2008 in current prices.’

Done at Strasbourg, 18 December 2008.

For the European Parliament  
*The President*

For the Council  
*The President*

For the Commission  
*The President*

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<sup>(1)</sup> COM(2008)0450 — 2008/0149(COD).

## Draft amendment of the IIA of 17 May 2006

P6\_TA(2008)0618

### European Parliament resolution of 18 December 2008 on a draft amendment of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (2008/2325(INI))

(2010/C 45 E/19)

*The European Parliament,*

- 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 <sup>(1)</sup> (IIA), and in particular Point 25 thereof,
  - having regard to the outcome of the conciliation meeting of 21 November 2008 with the Council,
  - having regard to the Commission proposal to the European Parliament and to the Council (COM(2008)0834),
  - having regard to its position of 4 December 2008 on a proposal for a regulation of the European Parliament and of the Council establishing a facility for rapid response to soaring food prices in developing countries <sup>(2)</sup>,
  - having regard to Rule 45 and to Annex VI, Section IV, points (1) and (2), of its Rules of Procedure,
  - having regard to the report of the Committee on Budgets (A6-0504/2008),
- A. whereas the European Parliament firmly supports the initiative of the Commission to create a new facility for rapid response to soaring food prices in developing countries (the 'Food Facility'), the idea of which had also been endorsed by the European Council of 19 and 20 June 2008,
- B. whereas the European Parliament and the Council, at the conciliation meeting of 21 November 2008, agreed on the financing of the 'Food Facility' for a total amount of EUR 1 billion over three years,
- C. whereas the initial proposal of the Commission envisaged financing the 'Food Facility' from the margin of heading 2 of the Multiannual Financial Framework (MFF), but this approach was rejected both by the European Parliament and the Council,
- D. whereas the European Parliament considered that the most appropriate solution would be the revision of the ceiling of heading 4 of the MFF, but the Council rejected this option,
- E. whereas the two branches of the budgetary authority finally agreed to finance the 'Food Facility' through an optimal combination of the Emergency Aid Reserve, the Instrument of Flexibility and redeployment within heading 4 from the Instrument for Stability,

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0576.

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- F. whereas this agreement provides for a contribution of the Emergency Aid Reserve to the financing of the 'Food Facility' amounting to EUR 340 million, of which EUR 22 million is from the appropriations still available in the 2008 budget, EUR 78 million from the appropriations budgeted for 2009 and EUR 240 million through a one-off increase in the amount of the Emergency Aid Reserve to be budgeted in 2008,
- G. whereas this increase requires a modification of Point 25 of the IIA in order to increase the funds available in the Emergency Aid Reserve for 2008 to EUR 479 218 000 (in current prices),
- H. whereas this modification requires the approval of both branches of the budgetary authority, which implies the unanimous agreement of all Member States in the Council,
1. Welcomes the amendment of Point 25 of the IIA as attached to its decision of 18 December 2008 <sup>(1)</sup>, which increases the funds available in the Emergency Aid Reserve for 2008 to EUR 479 218 000 (in current prices);
  2. Reiterates its concerns, however, about the fact that heading 4 has been under permanent pressure due to its limited available margin, which necessitates mobilisation of exceptional mechanisms in order to respond to urgent unforeseen situations; calls for a thorough evaluation of the necessity to increase the amounts available under this heading in order to allow for the smooth development of long-term programmable activities in this area and secure the Union's capacity to fully play its role as a global actor in the international sphere;
  3. Instructs its President to forward this resolution to the Council and the Commission.

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<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0617.

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## III

(Preparatory acts)

## PREPARATORY ACTS

**EC-Morocco Euro-Mediterranean Agreement (accession of Bulgaria and Romania) \*\*\***

P6\_TA(2008)0584

**European Parliament legislative resolution of 16 December 2008 on the draft Council decision on the conclusion of a Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union (13104/2007 — COM(2007)0404 — C6-0383/2008 — 2007/0137(AVC))**

(2010/C 45 E/20)

(Assent procedure)

*The European Parliament,*

- having regard to the proposal for a Council decision (COM(2007)0404),
  - having regard to the text of the Council (13104/2007),
  - 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, second sentence, and Article 310 of the EC Treaty (C6-0383/2008),
  - having regard to Rules 75, 83(7) and 43(1) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Foreign Affairs (A6-0458/2008),
1. Gives its assent to conclusion of the Protocol;
  2. Instructs its President to forward its position to the Council and the Commission, and to the governments and parliaments of the Member States and of the Kingdom of Morocco.

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### **EC-Albania Stabilisation and Association Agreement (accession of Bulgaria and Romania) \*\*\***

P6\_TA(2008)0585

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council and Commission decision on conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union (7999/2008 — COM(2008)0139 — C6-0453/2008 — 2008/0057(AVC))**

(2010/C 45 E/21)

(Assent procedure)

*The European Parliament,*

- having regard to the proposal for a Council and Commission decision (COM(2008)0139),
  - 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, second sentence and Article 310 of the EC Treaty (C6-0453/2008),
  - having regard to Rules 75, 83(7) and 43(1) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Foreign Affairs (A6-0496/2008),
1. Gives its assent to conclusion of the Protocol;
  2. Instructs its President to forward its position to the Council and the Commission, and to the governments and parliaments of the Member States and of the Republic of Albania.

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### **EC-Croatia Stabilisation and Association Agreement (accession of Bulgaria and Romania) \*\*\***

P6\_TA(2008)0586

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council and Commission decision on conclusion of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union (15019/2008 — COM(2007)0612 — C6-0463/2008 — 2007/0215(AVC))**

(2010/C 45 E/22)

(Assent procedure)

*The European Parliament,*

- having regard to the proposal for a Council and Commission decision (COM(2007)0612),
- 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, second sentence and Article 310 of the EC Treaty (C6-0463/2008),

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- having regard to Rules 75, 83(7) and 43(1) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Foreign Affairs (A6-0490/2008),
1. Gives its assent to conclusion of the Protocol;
  2. Instructs its President to forward its position to the Council and the Commission, and to the governments and parliaments of the Member States and of the Republic of Croatia.

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### **Agreement between the EC and India on certain aspects of air services \***

P6\_TA(2008)0587

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Republic of India on certain aspects of air services (COM(2008)0347 — C6-0342/2008 — 2008/0121(CNS))**

(2010/C 45 E/23)

(Consultation procedure)

*The European Parliament,*

- having regard to the proposal for a Council decision (COM(2008)0347),
  - having regard to Article 80(2) 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 (C6-0342/2008),
  - 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 (A6-0471/2008),
1. Approves conclusion of the agreement;
  2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and the Republic of India.
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Tuesday 16 December 2008

## Protection of the euro against counterfeiting \*

P6\_TA(2008)0588

**European Parliament legislative resolution of 16 December 2008 on the draft Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting (14533/2008 — C6-0395/2008 — 2007/0192A(CNS))**

(2010/C 45 E/24)

(Consultation procedure — renewed consultation)

*The European Parliament,*

- having regard to the Council draft (14533/2008),
- having regard to the Commission proposal to the Council (COM(2007)0525),
- having regard to its position of 17 June 2008 <sup>(1)</sup>,
- having regard to Article 123(4) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0395/2008),
- having regard to Rules 51, 43(1) and 55(3) of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0499/2008),

1. Approves the Council draft;
2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
3. Calls on the Council to consult Parliament again if it intends to amend the draft substantially or replace it with another text;
4. Instructs its President to forward its position to the Council and the Commission.

<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0280.

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## Protection of the euro against counterfeiting (non-euro Member States) \*

P6\_TA(2008)0589

**European Parliament legislative resolution of 16 December 2008 on the draft Council Regulation amending Regulation (EC) No 1339/2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (14533/2008 — C6-0481/2008 — 2007/0192B(CNS))**

(2010/C 45 E/25)

(Consultation procedure — renewed consultation)

*The European Parliament,*

- having regard to the Council draft (14533/2008),
- having regard to the Commission proposal to the Council (COM(2007)0525),

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- having regard to its position of 17 June 2008 <sup>(1)</sup>,
  - having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0481/2008),
  - having regard to Rules 51, 43(1) and 55(3) of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0503/2008),
1. Approves the Council draft;
  2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  3. Calls on the Council to consult Parliament again if it intends to amend the draft substantially or replace it with another text;
  4. Instructs its President to forward its position to the Council and the Commission.

<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0280.

## **Coordination of safeguards required of companies (codified version) \*\*\*I**

P6\_TA(2008)0590

**European Parliament legislative resolution of 16 December 2008 on the proposal for a directive of the European Parliament and of the Council on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (codified version) (COM(2008)0544 — C6-0316/2008 — 2008/0173(COD))**

(2010/C 45 E/26)

(Codecision procedure — codification)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0544),
- having regard to Articles 251(2) and 44(2)(g) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0316/2008),
- having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts <sup>(1)</sup>,

<sup>(1)</sup> OJ C 102, 4.4.1996, p. 2.

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- having regard to Rules 80 and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0465/2008),
- 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.

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### **Tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals (codified version) \***

P6\_TA(2008)0591

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council directive on tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals (codified version) (COM(2008)0376 — C6-0290/2008 — 2008/0120(CNS))**

(2010/C 45 E/27)

(Consultation procedure — codification)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0376),
  - having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0290/2008),
  - having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts <sup>(1)</sup>,
  - having regard to Rules 80 and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0466/2008),
- 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.

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<sup>(1)</sup> OJ C 102, 4.4.1996, p. 2.

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Tuesday 16 December 2008

**Expenditure in the veterinary field (codified version) \***

P6\_TA(2008)0592

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council decision on expenditure in the veterinary field (codified version) (COM(2008)0358 — C6-0271/2008 — 2008/0116(CNS))**

(2010/C 45 E/28)

(Consultation procedure — codification)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0358),
  - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0271/2008),
  - having regard to the Interinstitutional Agreement of 20 December 1994 — Accelerated working method for official codification of legislative texts <sup>(1)</sup>,
  - having regard to Rules 80 and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0464/2008),
- 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.

<sup>(1)</sup> OJ C 102, 4.4.1996, p. 2.

**Medals and tokens similar to euro coins \***

P6\_TA(2008)0593

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council regulation amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins (COM(2008)0514 VOL. I — C6-0332/2008 — 2008/0167(CNS))**

(2010/C 45 E/29)

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0514 VOL. I),
- having been consulted by the Council (C6-0332/2008),

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- having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0469/2008),
1. Approves the Commission proposal;
  2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  4. Instructs its President to forward its position to the Council and the Commission.

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### **Medals and tokens similar to euro coins: application to non-participating Member States \***

P6\_TA(2008)0594

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council regulation amending Regulation (EC) No 2183/2004 extending to the non-participating Member States the application of Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins (COM(2008)0514 VOL. II — C6-0335/2008 — 2008/0168(CNS))**

(2010/C 45 E/30)

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0514 VOL. II),
  - having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0335/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0470/2008),
1. Approves the Commission proposal;
  2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  4. Instructs its President to forward its position to the Council and the Commission.
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## Draft amending budget No 9/2008

P6\_TA(2008)0595

### European Parliament resolution of 16 December 2008 on Draft amending budget No 9/2008 of the European Union for the financial year 2008, Section III — Commission (16263/2008 — C6-0462/2008 — 2008/2311(BUD))

(2010/C 45 E/31)

*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 <sup>(1)</sup>, 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 <sup>(2)</sup>,
- 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 <sup>(3)</sup>,
- having regard to Preliminary draft amending budget No 10/2008 of the European Union for the financial year 2008, which the Commission presented on 31 October 2008 (COM(2008)0693),
- having regard to Draft amending budget No 9/2008, which the Council established on 27 November 2008 (16263/2008 — C6-0462/2008),
- having regard to Rule 69 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgets (A6-0487/2008),

A. Whereas Draft amending budget (DAB) No 9 to the general budget 2008 covers the following items:

- a net increase in the forecast of revenues (EUR 1 198,7 million) after the revision of the forecasts of own resources and other revenue;
- a decrease of payment appropriations in budget lines for headings 1a, 1b, 2, 3b and 4 (EUR 4 891,3 million), after taking into account the redeployments proposed in the global transfer;
- inclusion of the budgetary aspects related to the financing of the Facility for rapid response to soaring food prices in developing countries in 2008, as resulting from the joint declaration of the Parliament and of the Council of 21 November 2008 on the financing of the Food Facility,

B. Whereas the purpose of DAB No 9/2008 is to formally enter this budgetary adjustment into the 2008 budget,

C. Whereas the Council has adopted Preliminary draft amending budget (PDAB) No 10/2008 as DAB No 9/2008, following the cancellation of PDAB No 8/2008,

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> OJ L 71, 14.3.2008.

<sup>(3)</sup> OJ C 139, 14.6.2006, p. 1.

Tuesday 16 December 2008

1. Takes note of Preliminary draft amending budget No 10/2008;
2. Approves Draft amending budget No 9/2008 unamended;
3. Instructs its President to forward this resolution to the Council and Commission.

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## Units of measurement \*\*\*II

P6\_TA(2008)0596

**European Parliament legislative resolution of 16 December 2008 on the common position adopted by the Council with a view to the adoption of a directive of the European Parliament and of the Council amending Council Directive 80/181/EEC on the approximation of the laws of the Member States relating to units of measurement (11915/3/2008 — C6-0425/2008 — 2007/0187(COD))**

(2010/C 45 E/32)

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (11915/3/2008 — C6-0425/2008),
  - having regard to its position at first reading <sup>(1)</sup> on the Commission proposal to Parliament and the Council (COM(2007)0510),
  - 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 the Internal Market and Consumer Protection (A6-0476/2008),
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 and Commission.

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<sup>(1)</sup> OJ C 297 E, 20.11.2008, p. 105.

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**Creation of a European Training Foundation (recast) \*\*\*II**

P6\_TA(2008)0599

**European Parliament legislative resolution of 16 December 2008 on the Council common position for adopting a regulation of the European Parliament and of the Council establishing a European Training Foundation (recast) (11263/4/2008 — C6-0422/2008 — 2007/0163(COD))**

(2010/C 45 E/33)

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (11263/4/2008 — C6-0422/2008),
  - having regard to its position at first reading <sup>(1)</sup> on the Commission proposal to Parliament and the Council (COM(2007)0443),
  - having regard to the amended Commission proposal (COM(2007)0707),
  - 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 (A6-0473/2008),
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 and the Commission.

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(<sup>1</sup>) Texts Adopted, 22.5.2008, P6\_TA(2008)0227.

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Tuesday 16 December 2008

## **Adaptation of a number of instruments to the regulatory procedure with scrutiny, 'omnibus' Regulation, Part Four \*\*\*I**

P6\_TA(2008)0600

**European Parliament legislative resolution of 16 December 2008 on the proposal for a regulation of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC, as amended by Decision 2006/512/EC, with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part Four (COM(2008)0071 — C6-0065/2008 — 2008/0032(COD))**

(2010/C 45 E/34)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0071),
- having regard to Article 251(2) and Articles 47(2), 55, 71(1), 80(2), 95, 152(4)(a) and (b), 175(1) and 285(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0065/2008),
- having regard to the undertakings given by the Council representative by letter of 4 December 2008 to adopt the proposal as amended, in accordance with Article 251(2), second sentence, 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 Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy, the Committee on the Internal Market and Consumer Protection and the Committee on Transport and Tourism (A6-0301/2008),

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)0032**

**Position of the European Parliament adopted at first reading on 16 December 2008 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part Four**

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

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**European Judicial Network in civil and commercial matters \*\*\*I**

P6\_TA(2008)0601

**European Parliament legislative resolution of 16 December 2008 on the proposal for a decision of the European Parliament and of the Council amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters (COM(2008)0380 — C6-0248/2008 — 2008/0122(COD))**

(2010/C 45 E/35)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0380),
  - having regard to Article 251(2) and Articles 61(c) and 67(5), second indent, of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0248/2008),
  - having regard to Articles 61(d) and 66 of the EC Treaty,
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Rules 51 and 35 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 (A6-0457/2008),
1. Approves the Commission proposal as amended;
  2. Approves the Joint Statement annexed hereto;
  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.

Tuesday 16 December 2008

P6\_TC1-COD(2008)0122

**Position of the European Parliament adopted at first reading on 16 December 2008 with a view to the adoption of Decision No .../2009/EC of the European Parliament and of the Council amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Decision No 568/2009/EC.)*

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ANNEX

JOINT STATEMENT ON THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

The European Parliament and the Council invite the Commission to ask representatives of the Court of Justice, at the level and in the way which the Court deems appropriate, to attend meetings of the European Judicial Network on civil and commercial matters.

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**European Works Council (Recast) \*\*\*I**

P6\_TA(2008)0602

**European Parliament legislative resolution 16 December 2008 on the proposal for a directive of the European Parliament and of the Council on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (recast) (COM(2008)0419 — C6-0258/2008 — 2008/0141(COD))**

(2010/C 45 E/36)

(Codecision procedure — recast)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0419),
- having regard to Article 251(2) and Article 137 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0258/2008),
- having regard to the undertakings given by the Council representative by letter of 10 December 2008 to adopt the proposal as amended, in accordance with Article 251(2), second subparagraph, first indent of the EC Treaty,
- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts <sup>(1)</sup>,
- having regard to the letter of 9 October 2008 from the Committee on Legal Affairs to the Committee on Employment and Social Affairs in accordance with Rule 80a(3) of its Rules of Procedure,

<sup>(1)</sup> OJ C 77, 28.3.2002, p. 1.

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- having regard to Rules 80a and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs (A6-0454/2008),
- 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 straight-forward 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 Commission.

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#### **P6\_TC1-COD(2008)0141**

#### **Position of the European Parliament adopted at first reading on 16 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast)**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/38/EC.)*

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#### **Transfers of defence-related products \*\*\*I**

P6\_TA(2008)0603

#### **European Parliament legislative resolution of 16 December 2008 on the proposal for a directive of the European Parliament and of the Council on simplifying terms and conditions of transfers of defence-related products within the Community (COM(2007)0765 — C6-0468/2007 — 2007/0279(COD))**

(2010/C 45 E/37)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0765),
- having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0468/2007),

Tuesday 16 December 2008

- 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 Foreign Affairs and the Committee on Industry, Research and Energy (A6-0410/2008),
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 Commission.

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**P6\_TC1-COD(2007)0279**

**Position of the European Parliament adopted at first reading on 16 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council simplifying terms and conditions of transfers of defence-related products within the Community**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/43/EC.)*

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**Type-approval of motor vehicles and engines \*\*\*I**

P6\_TA(2008)0604

**European Parliament legislative resolution of 16 December 2008 on the proposal for a regulation of the European Parliament and of the Council on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information (COM(2007)0851 — C6-0007/2008 — 2007/0295(COD))**

(2010/C 45 E/38)

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0851),
- having regard to Articles 251(2) and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0007/2008),

Tuesday 16 December 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 the Internal Market and Consumer Protection and the Committee on Transport and Tourism (A6-0329/2008),
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 Commission.

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**P6\_TC1-COD(2007)0295**

**Position of the European Parliament adopted at first reading on 16 December 2008 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC**

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

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**ERDF, ESF, Cohesion Fund (revenue-generating projects) \*\*\***

P6\_TA(2008)0605

**European Parliament legislative resolution of 16 December 2008 on the proposal for a Council Regulation (EC) amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund, in respect of certain revenue-generating projects (13874/2008 — C6-0387/2008 — 2008/0186(AVC))**

(2010/C 45 E/39)

(Assent procedure)

*The European Parliament,*

- having regard to the proposal for a Council regulation (COM(2008)0558 — 13874/2008),
- having regard to the request for assent submitted by the Council pursuant to Article 161, first paragraph, of the EC Treaty (C6-0387/2008),



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- having regard to Rule 75(1) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Regional Development and the opinion of the Committee on Employment and Social Affairs (A6-0477/2008),
1. Gives its assent to the proposal for a Council regulation;
  2. Instructs its President to forward its position to the Council and Commission.

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### **Conditions of employment of other servants of the European Communities \***

P6\_TA(2008)0606

#### **European Parliament legislative resolution of 16 December 2008 on the proposal for a Council regulation amending the Conditions of employment of other servants of the European Communities (COM(2008)0786 — C6-0449/2008 — 2008/0224(CNS))**

(2010/C 45 E/40)

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0786),
  - having regard to Article 283 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0449/2008),
  - having regard to Article 21 of the Statute for Members of the European Parliament <sup>(1)</sup>,
  - having regard to Parliament's political declaration made in plenary on 16 December 2008 <sup>(2)</sup>,
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Budgets (A6-0483/2008),
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;

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<sup>(1)</sup> Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ L 262, 7.10.2005, p. 1).

<sup>(2)</sup> See the Minutes.

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3. Considers that the financial amounts indicated in the legislative proposal are compatible with the ceiling of heading 5, administrative expenditure, of the multi-annual financial framework;
4. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
5. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
6. Asks the Council to consult Parliament again if it intends to amend the text submitted for consultation substantially;
7. Instructs its President to forward its position to the Council and the Commission.

TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 48****Proposal for a regulation — amending act  
Recital 1**

(1) According to Article 21 of the Statute for Members of the European Parliament, Members shall be entitled to assistance from personal staff that they may freely choose. ***At present, Members employ all their staff directly under contracts subject to national law, while recovering the costs incurred from the European Parliament, subject to a fixed maximum amount.***

(1) According to Article 21 of the Statute for Members of the European Parliament, Members shall be entitled to assistance from personal staff that they may freely choose.

**Amendment 49****Proposal for a regulation — amending act  
Recital 1a (new)**

***(1a) At present, Members employ all their staff directly under contracts subject to national law, while recovering the costs incurred from the European Parliament, subject to a fixed maximum amount.***

**Amendment 50****Proposal for a regulation — amending act  
Recital 2**

(2) ***A limited number of such staff (hereinafter referred to as 'parliamentary assistants') assist one or more Members within the premises of the European Parliament in Strasbourg,***

(2) ***On 9 July 2008 the Bureau of the European Parliament adopted Implementing Measures for the Statute for Members of the European Parliament (1). Pursuant to***

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TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

*Brussels and Luxembourg. The others work for Members in the country where they have been elected.*

*Article 34 of those Implementing Measures, Members shall make use of:*

- a) *'accredited parliamentary assistants', employed at one of the Parliament's three places of work under the specific legal arrangements adopted on the basis of Article 283 of the Treaty and whose contracts are concluded and administered directly by Parliament, and*
- b) *natural persons who are to assist Members in their Member States of election and who have concluded an employment or service contract with them in keeping with applicable national law in accordance with the conditions laid down in the aforementioned Implementing Measures, hereinafter referred to as 'local assistants'.*

<sup>(1)</sup> OJ C ...

#### Amendment 51

Proposal for a regulation — amending act  
Recital 3

(3) In contrast to *the latter*, parliamentary assistants are, as a general rule, expatriates. They work in the premises of the European Parliament in a European, multilingual and multicultural environment and undertake tasks which are directly linked to work of the European Parliament.

(3) In contrast to *local assistants, accredited* parliamentary assistants are, as a general rule, expatriates. They work in the premises of the European Parliament in a European, multilingual and multicultural environment and undertake tasks which are directly linked to *the work carried out by one or several Members* of the European Parliament *in the exercise of their functions as Members of the European Parliament*.

#### Amendment 4

Proposal for a regulation — amending act  
Recital 4

(4) *This has been confirmed, moreover, by the Court of First Instance of the European Communities which has recognised that parliamentary assistants may in certain respects be considered for the purposes of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants to be performing duties for the Parliament.*

*deleted*

Tuesday 16 December 2008

TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 52****Proposal for a regulation — amending act****Recital 5**

(5) For these reasons and with a view to ensuring transparency, **non-discrimination** and legal certainty through common rules, it is appropriate to provide for **such** assistants, — **with the exception of persons working for Members in the Member State in which they were elected, including persons working locally for Members elected in one of the Member States in which the three places of work are situated** —, to be employed by way of direct contracts with the European Parliament.

(5) For these reasons and with a view to ensuring transparency and legal certainty through common rules, it is appropriate to provide for **accredited parliamentary** assistants to be employed by way of direct contracts with the European Parliament. **In contradistinction, local assistants, including those working for Members elected in one of the Member States in which the Parliament's three places of work are located, should continue to be employed, in accordance with the aforementioned Implementing Measures for the Statute for Members of the European Parliament, by Members of the European Parliament under contracts concluded under the applicable national law in the Member State in which they are elected.**

**Amendment 53****Proposal for a regulation — amending act****Recital 6**

(6) It is therefore appropriate for **such** assistants to be subject to the Conditions of Employment of other servants in such a way as to take account of their particular circumstances.

(6) It is therefore appropriate for **accredited parliamentary** assistants to be subject to the Conditions of employment of other servants in such a way as to take account of their particular circumstances, **the particular tasks they are called on to perform and the specific duties and obligations they have to fulfil vis-à-vis the Members of the European Parliament for whom they are called on to work.**

**Amendment 54****Proposal for a regulation — amending act****Recital 7**

(7) The introduction of this specific category of servants does not affect Article 29 of the Staff Regulations which provides that internal competitions are only open to officials and temporary staff.

(7) The introduction of this specific category of servants does not affect Article 29 of the Staff Regulations, which provides that internal competitions are only open to officials and temporary staff, **and no provision of this Regulation may be construed as giving accredited parliamentary assistants privileged or direct access to posts of officials or other categories of servants of the European Communities or to internal competitions for such posts.**

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TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 55****Proposal for a regulation — amending act****Recital 7a (new)**

*(7a) As is the case for contract staff, Articles 27 to 34 of the Staff Regulations do not apply to accredited parliamentary assistants.*

**Amendment 56****Proposal for a regulation — amending act****Recital 8**

(8) **Parliamentary** assistants thus constitute a category of **staff** specific to the European Parliament, in particular with regard to the fact that they **support Members of Parliament in their capacity as democratically elected representatives entrusted with a mandate, in carrying out their duties.**

(8) **Accredited parliamentary** assistants thus constitute a category of **other servants** specific to the European Parliament, in particular with regard to the fact that they **provide, under the direction and authority of one or several Members of the European Parliament and in a relationship of mutual trust, direct assistance to that Member or those Members in the exercise of their functions as Members of the European Parliament.**

**Amendment 57****Proposal for a regulation — amending act****Recital 9**

(9) Accordingly, it is necessary to amend the Conditions of Employment of other servants **to a limited extent** in order to incorporate this new category of **staff**.

(9) Accordingly, it is necessary to amend the Conditions of employment of other servants in order to incorporate this new category of **other servants, taking account, on the one hand, of the specific nature of the duties, functions and responsibilities of accredited parliamentary assistants, which are designed to allow them to provide direct assistance to Members of the European Parliament in the exercise of their functions as Members of the European Parliament, under their direction and authority, and, on the other, of the contractual relationship between those accredited parliamentary assistants and the Parliament.**

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TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 58****Proposal for a regulation — amending act  
Recital 9a (new)**

*(9a) Where provisions of the Conditions of employment of other servants apply to accredited parliamentary assistants, directly or by analogy, these factors must be taken into account, having strict regard in particular to the mutual trust which has to characterise the relationship between the accredited parliamentary assistants and the Member or Members of the European Parliament whom they assist.*

**Amendment 59****Proposal for a regulation — amending act  
Recital 10**

(10) In the light of the nature of the duties of assistants, it is necessary to provide for only one category of assistants, but divided into grades, to which assistants should be assigned **according to criteria to be determined in an** internal decision of the European Parliament.

(10) In the light of the nature of the duties of **accredited parliamentary** assistants, it is necessary to provide for only one category of **accredited parliamentary** assistants, but divided into grades, to which **such** assistants should be assigned **by indication of the Members concerned in accordance with specific implementing measures adopted by** internal decision of the European Parliament.

**Amendment 60****Proposal for a regulation — amending act  
Recital 11**

(11) The contracts of parliamentary assistants concluded between them and the European Parliament should be based on mutual trust between the parliamentary assistant and the Member or Members **of the European Parliament** whom he assists.

(11) The contracts of **accredited** parliamentary assistants concluded between them and the European Parliament should be based on mutual trust between the **accredited** parliamentary assistant and the Member or Members whom he assists. **The duration of such contracts should be directly linked to the duration of the mandate of the Members concerned.**

**Amendment 61****Proposal for a regulation — amending act  
Recital 11a (new)**

*(11a) Accredited Parliamentary assistants should have statutory representation outside the system that applies to officials and other staff of the European Parliament. Their representatives should act as interlocutor vis-à-vis the competent authority of the European Parliament, taking into account that a formal link should be established between the statutory representation of the Staff and the autonomous representation of the assistants.*

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TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 62****Proposal for a regulation — amending act****Recital 12**

(12) The principle of budgetary neutrality should be observed in respect of the introduction of this new category of staff. **In this respect, the European Parliament shall pay into the general budget of the European Union the entire amount of the contributions needed to finance the pension scheme with the exception of the contribution under Article 83(2) of the Staff Regulations which is deducted monthly from the salary of the person concerned.**

(12) The principle of budgetary neutrality should be observed in respect of the introduction of this new category of staff.

**Amendment 64****Proposal for a regulation — amending act****Recital 12a (new)**

**(12a) The implementing measures laid down by internal decision of the European Parliament should include further rules for the implementation of this Regulation, based on the principle of sound financial management as set out in Title II of the Financial Regulation <sup>(1)</sup>.**

<sup>(1)</sup> Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

**Amendment 65****Proposal for a regulation — amending act****Article 1a (new)****Article 1a**

**The appropriations entered in the European Parliament section of the general budget of the European Union and earmarked to cover parliamentary assistance, the annual amounts of which will be determined within the framework of the annual budgetary procedure, shall cover all the costs directly associated with Members' assistants, be they accredited assistants or local assistants.**

**Amendment 67****Proposal for a regulation — amending act****Article 2**

**Within three years of the entry into force of this Regulation, the European Parliament shall submit a report on the application of this Regulation in order to examine the possible need to adapt the rules applying to parliamentary assistants.**

**The European Parliament shall, no later than 31 December 2011, present a report on the application of this Regulation in order to examine the possible need to adapt the rules applying to parliamentary assistants.**



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TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

*On the basis of that report, the Commission may make any proposals it deems appropriate to that effect.*

#### Amendment 66

##### Proposal for a regulation — amending act

##### Annex — point 1

Regulation No 31 (EEC), 11 (EAEC)

Article 1

1) in Article 1, the following indent shall be inserted after ‘— special advisers’:

‘— parliamentary assistants.’

1) in Article 1, the following indent shall be inserted after ‘— special advisers’:

‘— **accredited** parliamentary assistants.’

*(This amendment applies throughout the text.)*

#### Amendment 68

##### Proposal for a regulation — amending act

##### Annex — point 2

Regulation No 31 (EEC), 11 (EAEC)

Article 5a

For the purposes of these Conditions of **Employment**, ‘parliamentary **assistant**’ means **staff** chosen by one or more Members and engaged by way of direct contract **with** the European Parliament to **assist one or more** Members of the European Parliament, **as provided for in Article 125(1)**.

For the purposes of these Conditions of **employment**, ‘**accredited** parliamentary **assistants**’ means **persons** chosen by one or more Members and engaged by way of direct contract **by** the European Parliament to **provide direct assistance, in the premises of the European Parliament at one of its three places of work, to the Member or Members in the exercise of their functions as Members of the European Parliament, under their direction and authority and in a relationship of mutual trust deriving from the freedom of choice referred to in Article 21 of the Statute for Members of the European Parliament.**

#### Amendment 20

##### Proposal for a regulation — amending act

##### Annex — point 3

Regulation No 31 (EEC), 11 (EAEC)

Chapter 1 — Article 125 — paragraph 1

1. ‘Parliamentary assistant’ means a member of staff engaged by the European Parliament to assist, in the premises of the European Parliament in one of the European Parliament’s three places of work, one or more Members in carrying out their parliamentary mandate. He shall carry out tasks which are directly linked to the work of the European Parliament.

*deleted*

Tuesday 16 December 2008

TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

*The Parliamentary assistants shall be engaged to perform either part-time or full-time duties without being assigned to a post included in the list of posts appended to the section of the budget relating to the European Parliament.*

#### Amendment 69

##### Proposal for a regulation — amending act

##### Annex — point 3

Regulation No 31 (EEC), 11 (EAEC)

Chapter 1 — Article 125 — paragraph 2

2. *By internal decision, the European Parliament shall adopt provisions governing the employment of parliamentary assistants.*

1. *The European Parliament shall adopt **implementing measures by internal decision for the purposes of the application of this Title.***

#### Amendment 70

##### Proposal for a regulation — amending act

##### Annex — point 3

Regulation No 31 (EEC), 11 (EAEC)

Chapter 1 — Article 125 — paragraph 3

3. *Parliamentary assistants shall be paid from the **total** appropriations allocated to the section of the budget relating to the European Parliament.*

2. *Accredited parliamentary assistants shall **not be assigned to a post included in the list of posts appended to the section of the budget relating to the European Parliament. Their remuneration shall be financed under the appropriate budget heading and they shall** be paid from the appropriations allocated to the section of the budget relating to the European Parliament.*

#### Amendment 71

##### Proposal for a regulation — amending act

##### Annex — point 3

Regulation No 31 (EEC), 11 (EAEC)

Chapter 1 — Article 126 — paragraph 1

1. *Parliamentary assistants shall be classified by grade.*

1. *The accredited parliamentary assistant shall be classified by grade **by indication given by the Member or Members whom the assistant will support, in accordance with the implementing measures referred to in Article 125(1). For classification in grades 14-19 as set out in Article 134, accredited parliamentary assistants shall be required, as a minimum, to have a university degree or equivalent professional experience.***

**Amendment 72****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 1 — Article 126 — paragraph 2

2. Article 1e of the Staff Regulations, on measures of a social nature and working conditions, shall apply by analogy.

2. Article 1e of the Staff Regulations, on measures of a social nature and working conditions, shall apply by analogy, **provided that such measures are compatible with the particular nature of the tasks and responsibilities taken on by accredited parliamentary assistants.**

**By way of derogation from Article 7, the arrangements relating to the autonomous representation of accredited parliamentary assistants shall be laid down by the implementing measures referred to in Article 125(1) taking into account that a formal link shall be established between the statutory representation of the Staff and the autonomous representation of the assistants.**

**Amendment 73****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 2 — Article 127

Articles 11 to 26a of the Staff Regulations shall apply by analogy. **The European Parliament shall determine in an internal decision practical implementing measures that** take account of the specific nature of the working relationship between Members and their assistants.

Articles 11 to 26a of the Staff Regulations shall apply by analogy. **Having strict regard in particular to the specific nature of the functions and duties of accredited parliamentary assistants and the mutual trust which has to characterise the relationship between them and the Member or Members of the European Parliament whom they assist, the implementing measures relating to this area adopted pursuant to Article 125(1) shall** take account of the specific nature of the working relationship between Members and their **accredited parliamentary** assistants.

**Amendment 26****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 128 — paragraph 1

1. Article 1d of the Staff Regulations shall apply by analogy.

1. Article 1d of the Staff Regulations shall apply by analogy, **taking into account the relationship of mutual trust between the Member of the European Parliament and his accredited parliamentary assistant or assistants, it being understood that Members of the European Parliament may base their selection of accredited parliamentary assistants also on political affinity.**

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TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 74****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 128 — paragraph 2 — introductory part

2. A parliamentary assistant shall be selected by the Member or Members of the European Parliament whom he is to assist. Without prejudice to any additional requirements which may be laid down in the **provisions** referred to in Article **125(2)**, the assistant may be engaged only on condition that he:

2. **An accredited** parliamentary assistant shall be selected by the Member or Members of the European Parliament whom he is to assist. Without prejudice to any additional requirements which may be laid down in the **implementing measures** referred to in Article **125(1)**, the assistant may be engaged only on condition that he:

**Amendment 28****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 128 — paragraph 2 — point e

(e) **produces evidence of** a thorough knowledge of one of the languages of the Community and **appropriate** knowledge of another Community language **to the extent necessary for the duties he is called upon to perform** and

(e) **has** a thorough knowledge of one of the languages of the Community and **a satisfactory** knowledge of another Community language and

**Amendment 29****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 129

Article 129

*deleted*

1. **A parliamentary assistant shall serve a probationary period of three months.**

2. **Where during his probationary period a parliamentary assistant is prevented by sickness or accident from performing his duties for one month or more, the authority referred to in the first paragraph of Article 6 may, at the Member's request, extend his probationary period by the corresponding length of time.**

## TEXT PROPOSED BY THE COMMISSION

## AMENDMENTS

3. *Not less than one month before the expiry of the probationary period, a report on his ability to perform his duties and also on his conduct and efficiency shall be made by the Member of the European Parliament if the work of the parliamentary assistant has not proved adequate to justify retention in his function. That report shall be communicated to the person concerned, who shall have the right to submit his comments in writing within a period of eight days, by the authority referred to in the first paragraph of Article 6. If necessary, the abovementioned parliamentary assistant shall be dismissed by the authority referred to in the first paragraph of Article 6, provided the report was communicated to him before the end of the probationary period.*

4. *A parliamentary assistant dismissed during the probationary period shall be entitled to compensation equal to one third of his basic salary per month of probation completed.*

**Amendment 30****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 130 — paragraph 1

1. *Before being engaged, a* parliamentary assistant shall provide evidence of physical fitness to the European Parliament's medical service in order that the European Parliament may be satisfied that he fulfils the requirements of Article 128(2)(d).

1. *An accredited* parliamentary assistant shall provide evidence of physical fitness to the European Parliament's medical service in order that the European Parliament may be satisfied that he fulfils the requirements of Article 128(2)(d).

**Amendment 31****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 131 — paragraph 1

1. The contracts of parliamentary assistants shall be concluded for a fixed period. Without prejudice to Article 140, the contracts shall expire at the latest by the end of the parliamentary term during which they were concluded.

1. The contracts of *accredited* parliamentary assistants shall be concluded for a fixed period *and shall specify the grade in which the assistant is classified. A fixed-term contract shall not be extended more than twice during a parliamentary term. Unless otherwise specified in the contract itself, the contract shall terminate at the end of the parliamentary term during which it was concluded.* Without prejudice to Article 140, the contracts shall expire at the latest by the end of the parliamentary term during which they were concluded.

Tuesday 16 December 2008

TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 75****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 3 — Article 131 — paragraph 2

2. The **European Parliament shall adopt an internal decision defining the criteria applicable to classification on engagement.**

2. The **implementing measures referred to in Article 125(1) shall set out a transparent framework for classification taking account of Article 128(2)(f).**

**Amendment 33****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 4 — Article 132 — paragraph –1 (new)

**–1. Accredited parliamentary assistants shall be engaged to perform either part-time or full-time duties.**

**Amendment 76****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 4 — Article 132 — paragraph 2

2. **Assistants** may not be required to work overtime except in the event of an emergency or exceptional workload.

2. **Accredited parliamentary assistants** may not be required to work overtime except in the event of an emergency or exceptional workload. **Article 56(1) shall apply by analogy. The implementing measures referred to in Article 125(1) may lay down rules in this regard.**

**Amendment 77****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 5 — Article 133

Save as otherwise provided in Articles 134 and 135, Article 19, Article 20(1) to (3) and Article 21 of these Conditions of Employment and Article 16 of Annex VII to the Staff Regulations (remuneration and expenses) shall apply by analogy. The arrangements for reimbursement of mission expenses shall be laid down in the **provisions** referred in **Article 125(2)**.

Save as otherwise provided in Articles 134 and 135, Article 19, Article 20(1) to (3) and Article 21 of these Conditions of Employment and Article 16 of Annex VII to the Staff Regulations (remuneration and expenses) shall apply by analogy. The arrangements for reimbursement of mission expenses shall be laid down in the **implementing measures** referred to in **Article 125(1)**.

Tuesday 16 December 2008

TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 78****Proposal for a regulation — amending act****Annex — point 3***Regulation No 31 (EEC), 11 (EAEC)**Chapter 5 — Article 134 — table*

Grade	1	2	3	4
Full-time basic salary	<b>1 193,00</b>	<b>1 389,85</b>	<b>1 619,17</b>	<b>1 886,33</b>
Grade	5	6	7	8
Full-time basic salary	<b>2 197,58</b>	<b>2 560,18</b>	<b>2 982,61</b>	<b>3 474,74</b>
Grade	9	10	11	12
Full-time basic salary	<b>4 048,07</b>	<b>4 716,00</b>	<b>5 494,14</b>	<b>6 400,67</b>
Grade	13	14		
Full-time basic salary	<b>7 456,78</b>	<b>8 687,15</b>		

Grade	1	2	3	4
Full-time basic salary	<b>1 619,17</b>	<b>1 886,33</b>	<b>2 045,18</b>	<b>2 217,41</b>
Grade	5	6	7	8
Full-time basic salary	<b>2 404,14</b>	<b>2 606,59</b>	<b>2 826,09</b>	<b>3 064,08</b>
Grade	9	10	11	12
Full-time basic salary	<b>3 322,11</b>	<b>3 601,87</b>	<b>3 905,18</b>	<b>4 234,04</b>
Grade	13	14	15	16
Full-time basic salary	<b>4 590,59</b>	<b>4 977,17</b>	<b>5 396,30</b>	<b>5 850,73</b>
<b>Grade</b>	<b>17</b>	<b>18</b>	<b>19</b>	
<b>Full-time basic salary</b>	<b>6 343,42</b>	<b>6 877,61</b>	<b>7 456,78</b>	

**Amendment 79****Proposal for a regulation — amending act****Annex — point 3***Regulation No 31 (EEC), 11 (EAEC)**Chapter 5 — Article 135*

By way of derogation from the last subparagraph of Article 4(1) of Annex VII to the Staff Regulations, the expatriation allowance shall not be less than **EUR 250**.

By way of derogation from the last subparagraph of Article 4(1) of Annex VII to the Staff Regulations, the expatriation allowance shall not be less than **EUR 350**.

**Amendment 80****Proposal for a regulation — amending act****Annex — point 3***Regulation No 31 (EEC), 11 (EAEC)**Chapter 6 — Article 137 — paragraph 1*

1. By way of derogation from the second subparagraph of Article 96(3) and without prejudice to the other provisions of that Article, the amounts calculated under that provision may neither be less than **EUR 700** nor exceed EUR 2 000.

1. By way of derogation from the second subparagraph of Article 96(3) and without prejudice to the other provisions of that Article, the amounts calculated under that provision may neither be less than **EUR 850** nor exceed EUR 2 000.



Tuesday 16 December 2008

TEXT PROPOSED BY THE COMMISSION

AMENDMENTS

**Amendment 81****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 6 — Article 137 — paragraph 3

3. *The European Parliament shall pay into the general budget of the European Union the entire amount of the contributions needed to finance the pension scheme with the exception of the contribution under Article 83(2) of the Staff Regulations which is deducted monthly from the salary of the person concerned.* **deleted**

**Amendment 82****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 8 — Article 139

The provisions of Title VII of the Staff Regulations on appeals shall apply by analogy.

The provisions of Title VII of the Staff Regulations on appeals shall apply by analogy. ***The implementing measures referred to in Article 125(1) may lay down complementary rules on the internal procedures.***

**Amendment 43****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)

Chapter 9 — Article 140 — paragraph 1 — point d

(d) at the end of the period of notice specified in the contract, which shall give the parliamentary assistant or the European Parliament the **option** to terminate the contract before its expiry. The period of notice shall not be less than one month per year of service, subject to a minimum of one month and a maximum of three months. The period of notice shall not, however, start to run during maternity leave or sick leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to these limits.

(d) ***taking into account the fact that trust is the basis of the relationship between the Member and his accredited parliamentary assistant***, at the end of the period of notice specified in the contract, which shall give the **accredited** parliamentary assistant or the European Parliament, ***acting at the request of the Member or Members of the European Parliament whom the accredited parliamentary assistant was taken on to assist***, the **right** to terminate the contract before its expiry. The period of notice shall not be less than one month per year of service, subject to a minimum of one month and a maximum of three months. The period of notice shall not, however, start to run during maternity leave or sick leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to these limits.

**Amendment 44****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)  
Chapter 9 — Article 140 — paragraph 2

2. Where the contract ceases pursuant to paragraph 1(c) **or the European Parliament terminates the contract pursuant to paragraph 1(d)**, the parliamentary assistant shall be entitled to compensation equal to one third of his basic salary for the period between the date when his duties end and the date when his contract expires, subject however to a maximum of three months' basic salary.

2. Where the contract ceases pursuant to paragraph 1(c), the **accredited** parliamentary assistant shall be entitled to compensation equal to one third of his basic salary for the period between the date when his duties end and the date when his contract expires, subject however to a maximum of three months' basic salary.

**Amendment 83****Proposal for a regulation — amending act****Annex — point 3**

Regulation No 31 (EEC), 11 (EAEC)  
Chapter 9 — Article 140 — paragraph 3

3. Without prejudice to Articles 48 and 50 which are applicable by analogy, the employment of **a** parliamentary assistant may be terminated without notice in serious cases of failure to comply with his obligations, whether intentionally or through negligence on his part. A reasoned decision shall be taken by the authority referred to in the first paragraph of Article 6, after the person concerned has had an opportunity of submitting his defence.

3. Without prejudice to Articles 48 and 50 which are applicable by analogy, the employment of **an accredited** parliamentary assistant may be terminated without notice in serious cases of failure to comply with his obligations, whether intentionally or through negligence on his part. A reasoned decision shall be taken by the authority referred to in the first paragraph of Article 6, after the person concerned has had an opportunity of submitting his defence.

**Specific provisions relating to the disciplinary procedure shall be laid down in the implementing measures referred to in Article 125(1).**

**Amendment 46****Proposal for a regulation — amending act****Annex — point 3**

Regulation 31 (EEC), 11 (EAEC)  
Chapter 9 — Article 140 — paragraph 3a (new)

**3a. Periods of employment as an accredited parliamentary assistant shall not be regarded as constituting 'years of service' for the purposes of Article 29(3) and (4) of the Staff Regulations.**

Wednesday 17 December 2008

## **Promotion of the use of energy from renewable sources \*\*\*I**

P6\_TA(2008)0609

### **European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council on the promotion of the use of energy from renewable sources (COM(2008)0019 — C6-0046/2008 — 2008/0016(COD))**

(2010/C 45 E/41)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0019),
- having regard to Article 251(2), Article 175(1) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0046/2008),
- having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
- having regard to Rules 51 and 35 of its Rules of Procedure,
- having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on the Environment, Public Health and Food Safety, the Committee on International Trade, the Committee on Economic and Monetary Affairs, the Committee on Transport and Tourism, the Committee on Regional Development and the Committee on Agriculture and Rural Development (A6-0369/2008),

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. Takes note of the statements of the Commission annexed to this resolution;
4. Instructs its President to forward its position to the Council and the Commission.

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### **P6\_TC1-COD(2008)0016**

#### **Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/28/EC.)*

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ANNEX

COMMISSION STATEMENTS

#### **Statement by the Commission relating to Article 2(e):**

The Commission is of the view that for the purposes of this directive, the term 'industrial and municipal waste' may include waste denominated as 'commercial waste'.

Wednesday 17 December 2008

**Statement by the Commission relating to Article 23(8), second subparagraph, second indent:**

The Commission is of the view that the reference to the target of 20 % in Article 23(8), second subparagraph, second indent will not be construed in a way different to Article 3(1) of the Directive.

**Statement by the Commission relating to Article 23(8)(c), (9) and (10):**

The Commission acknowledges that some Member States already in 2005 have achieved a high share of renewable energy at national level. When establishing the reports referred to in Article 23(8)(c), (9) and (10), the Commission will, as part of its assessment of the best cost-benefit basis, take due account of marginal costs of increasing the share of renewable energies and will include, as appropriate, adequate solutions also for such Member States in any proposal put forward in accordance with the above mentioned Article of the Directive.

**Statement by the Commission relating to Annex VII:**

The Commission will seek to advance the development of the guidelines referred to in Annex VII of the Directive by 2011 and will cooperate with Member States to develop the data and the methodologies needed to estimate and monitor the contribution of heat pumps to the fulfilment of the objectives of the Directive.

The guidelines will provide for corrections to Seasonal Performance Factor (SPF) values used to assess the inclusion of heat pumps not driven by electricity to take account of the fact that the primary energy needs of such heat pumps are not affected by the efficiency of the power system. In preparing these guidelines the Commission will also evaluate the feasibility of providing for a methodology under which the SPF value used to assess the inclusion of any given heat pump is based on average EU climate conditions.

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**Greenhouse gas emission allowance trading system \*\*\*I**

P6\_TA(2008)0610

**European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community (COM(2008)0016 — C6-0043/2008 — 2008/0013(COD))**

(2010/C 45 E/42)

(Codecision procedure: first reading)

*The European Parliament,*

— having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0016),

— having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0043/2008),

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

Wednesday 17 December 2008

- 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 International Trade, the Committee on Economic and Monetary Affairs and the Committee on Regional Development (A6-0406/2008),
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. Takes note of the statements of the Commission annexed to this resolution.
  4. Instructs its President to forward its position to the Council and Commission.

P6\_TC1-COD(2008)0013

**Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading system of the Community**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/29/EC.)*

ANNEX

COMMISSION STATEMENTS

**Commission statement ad Article 10, paragraph 3 on the use of revenues generated from the auctioning of allowances**

Between 2013 and 2016, Member States may also use revenues generated from the auctioning of allowances to support the construction of highly efficient power plants, including new energy power plants that are CCS-ready. For new installations exceeding the degree of efficiency of a power plant according to Annex 1 to the Commission Decision of 21 December 2006 (2007/74/EC) <sup>(1)</sup> the Member States may support up to 15 % of the total costs of the investment for a new installation that is CCS-ready.

<sup>(1)</sup> Commission Decision of 21 December 2006 establishing harmonised efficiency reference values for separate production of electricity and heat in application of Directive 2004/8/EC of the European Parliament and of the Council (*notified under document number C(2006) 6817*).

Wednesday 17 December 2008

**Commission statement ad Article 10a, paragraph 4a on the Community guidelines for state aid for environmental protection and the EU emissions trading system**

Member States may deem it necessary to compensate temporarily certain installations from CO<sub>2</sub> costs passed on in electricity prices if the CO<sub>2</sub> costs might otherwise expose them to the risk of carbon leakage. In the absence of an international agreement, the Commission undertakes to modify after consulting Member States the Community guidelines on state aid for environmental protection by the end of 2010 to establish detailed provision under which Member States may grant state aid for such support. The provisions will follow the principles as presented in the document submitted to the European Parliament and the Council on 19 November 2008 (Annex 2 15713/1/08).

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**Shared effort to reduce greenhouse gas emissions \*\*\*I**

P6\_TA(2008)0611

**European Parliament legislative resolution of 17 December 2008 on the proposal for a decision of the European Parliament and of the Council on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020 (COM(2008)0017 — C6-0041/2008 — 2008/0014(COD))**

(2010/C 45 E/43)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0017),
  - having regard to Articles 251(2) and 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0041/2008),
  - 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 Economic and Monetary Affairs, the Committee on Employment and Social Affairs and the Committee on Regional Development (A6-0411/2008),
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 Commission.

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**P6\_TC1-COD(2008)0014****Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Decision No .../2009/EC of the European Parliament and of the Council on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020**

(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Decision No 406/2009/EC.)

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Wednesday 17 December 2008

## Geological storage of carbon dioxide \*\*\*I

P6\_TA(2008)0612

**European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directives 85/337/EEC, 96/61/EC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and Regulation (EC) No 1013/2006 (COM(2008)0018 — C6-0040/2008 — 2008/0015(COD))**

(2010/C 45 E/44)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0018),
- having regard to Articles 251(2) and 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0040/2008),
- 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 Industry, Research and Energy (A6-0414/2008),

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. Takes note of the statements of the Commission annexed to this resolution;
4. Instructs its President to forward its position to the Council and Commission.

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P6\_TC1-COD(2008)0015

**Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/31/EC.)*

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## ANNEX

## COMMISSION STATEMENTS

**Statement by the Commission on latest developments in deployment of CCS technologies**

From 2010 the Commission will regularly report on latest developments in deployment of CCS technologies within its activities related to running the network of CCS demonstration projects. This reporting will include information on the progress on the CCS demo plants deployment, progress of CCS technologies development, cost estimates and the development of CO<sub>2</sub> transport and storage infrastructure.

**Statement by the Commission on draft permit decisions and on draft decisions of transfer pursuant to Articles 10 paragraph 1 and 18 paragraph 2 of the Directive**

The Commission will publish all opinions on draft permit decisions pursuant to Article 10 paragraph 1 of the Directive, and on draft decisions of transfer pursuant to Article 18 paragraph 2. The published version of the opinions will, however, display no information whose confidentiality is warranted under the exceptions to public access to information under Regulations (EC) Nos 1049/2001 and (EC) 1367/2006 concerning respectively public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p. 13).

**Statement by the Commission on whether carbon dioxide should be a named substance with suitable thresholds in a revised Seveso-Directive**

CO<sub>2</sub> is a common substance and currently not classified as dangerous. CO<sub>2</sub> transport and storage sites are therefore at the moment not included in Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (Seveso-Directive). On the basis of the Commission's preliminary analysis of the available information, for CO<sub>2</sub> transport, both empirical and modelled evidence for pipeline transport would seem to indicate that the risks presented are no higher than for pipeline transport of natural gas. The same would seem to be true for ship transport of CO<sub>2</sub> as compared with ship transport of liquefied natural gas or liquefied petroleum gas. The indications are also that the accident hazard posed by a CO<sub>2</sub> storage site, whether from rupture at injection or from post-injection leakage, is unlikely to be significant. However, the case for considering CO<sub>2</sub> as a named substance under the Seveso-Directive will be considered in more detail when developing the proposed revision of the Directive, scheduled for late 2009/ early 2010. Should the assessment identify a relevant potential accident hazard, the Commission will make proposals to include CO<sub>2</sub> as a named substance with suitable thresholds in the revised Seveso-Directive. In that case, the Commission would also propose changes to Annex III to Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (Environmental Liability Directive) as appropriate to ensure that all Seveso installations handling supercritical CO<sub>2</sub> are covered under the Environmental Liability Directive.

Wednesday 17 December 2008

### Statement by the Commission on mineral sequestration of CO<sub>2</sub>

Mineral sequestration of CO<sub>2</sub> (the fixation of CO<sub>2</sub> in the form of inorganic carbonates) is a potential climate abatement technology which could in principle be used by the same categories of industrial installation as can use geological storage of CO<sub>2</sub>. However, it is at present still in the development stage. In addition to the energy penalty <sup>(1)</sup> associated with capturing CO<sub>2</sub>, there is currently a substantial energy penalty associated with the mineral carbonation process itself, which will require to be addressed before commercial implementation can be envisaged. As with geological storage, the controls required to ensure the environmental safety of the technology would also have to be established. These controls are likely to be substantially different from those for geological storage, given the fundamental differences between the technologies. In the light of these considerations, the Commission will follow closely the technical progress with mineral sequestration, with a view to developing an enabling legal framework to allow for environmentally-safe mineral sequestration and its recognition under the Emissions Trading System, when the technology has reached an appropriate state of development. Given the interest in the technology among Member States and the pace of technological change, a first assessment is likely to be appropriate towards 2014, or earlier if circumstances warrant.

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(1) 'Energy penalty' is the term used to express the fact that a plant applying CO<sub>2</sub> capture or mineralisation uses some of its energy for those processes, and so needs more energy than a plant of equivalent output without capture/mineralisation.

### Monitoring and reduction of greenhouse gas emissions from fuels (road transport and inland waterway vessels) \*\*\*I

P6\_TA(2008)0613

**European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions from the use of road transport fuels and amending Council Directive 1999/32/EC, as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC (COM(2007)0018 — C6-0061/2007 — 2007/0019(COD))**

(2010/C 45 E/45)

(Codecision procedure: first reading)

*The European Parliament,*

— having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0018),

— having regard to Article 251(2) and Articles 95 and 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0061/2007),

Wednesday 17 December 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 and the Committee on Agriculture and Rural Development (A6-0496/2007),
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. Takes note of the statement of the Commission annexed to this resolution;
  4. Instructs its President to forward its position to the Council and Commission.

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**P6\_TC1-COD(2007)0019**

**Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/30/EC.)*

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**ANNEX****COMMISSION STATEMENT**

The Commission confirms that the 2 % reductions mentioned in Article 7a(2), letter b) and c), are not binding and that the review will address their non-binding character.

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**Emission performance standards for new passenger cars \*\*\*I**

P6\_TA(2008)0614

**European Parliament legislative resolution of 17 December 2008 on 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 reduce CO<sub>2</sub> emissions from light-duty vehicles (COM(2007)0856 — C6-0022/2008 — 2007/0297(COD))**

(2010/C 45 E/46)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0856),

Wednesday 17 December 2008

- having regard to Articles 251(2) and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0022/2008),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Rules 51 and 35 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 Industry, Research and Energy (A6-0419/2008),
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. Takes note of the statement of the Commission annexed to this resolution;
  4. Instructs its President to forward its position to the Council and Commission.

P6\_TC1-COD(2007)0297

**Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Regulation (EC) No .../2009 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 reduce CO<sub>2</sub> emissions from light-duty vehicles**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No 443/2009.)*

ANNEX

COMMISSION STATEMENT

The Commission confirms that in 2009 it intends to propose a revision of Directive 1999/94/EC relating to the availability of consumer information on fuel economy and CO<sub>2</sub> emissions in respect of the marketing of new passenger cars. This is to ensure that consumers receive appropriate information about the CO<sub>2</sub> emissions of new passenger cars.

The Commission will by 2010 review Directive 2007/46/EC so that the presence of innovative technologies ('eco-innovations') in a vehicle and their impact on the vehicle's specific emissions of CO<sub>2</sub> can be communicated to the Member State authorities responsible for monitoring and reporting in accordance with the Regulation.

The Commission will also consider preparing and implementing requirements for cars to be fitted with fuel economy meters as a means to encourage more fuel-efficient driving. In this context, the Commission will consider modifying the framework type approval legislation and adopting the necessary technical standards by 2010.

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The Commission is, however, committed to the aims of its Better Regulation initiative and the need for proposals to be underpinned by a comprehensive assessment of the impacts and benefits. In this regard and in accordance with the Treaty establishing the European Community, the Commission will continue to evaluate the need to bring forward new legislative proposals but reserves its right to decide if and when it would be appropriate to present any such proposal.

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## Organisation of working time \*\*\*II

P6\_TA(2008)0615

**European Parliament legislative resolution of 17 December 2008 on the Council common position for adopting a directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time (10597/2/2008 — C6-0324/2008 — 2004/0209(COD))**

(2010/C 45 E/47)

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (10597/2/2008 — C6-0324/2008),
  - having regard to its position at first reading <sup>(1)</sup> on the Commission proposal to Parliament and the Council (COM(2004)0607),
  - having regard to the amended Commission proposal (COM(2005)0246),
  - 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 Employment and Social Affairs (A6-0440/2008),
1. Approves the common position as amended;
  2. Instructs its President to forward its position to the Council and the Commission.

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<sup>(1)</sup> OJ C 92 E, 20.4.2006, p. 292.

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## P6\_TC2-COD(2004)0209

**Position of the European Parliament adopted at second reading on 17 December 2008 with a view to the adoption Directive 2009/.../EC of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission,

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Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) Article 137 of the Treaty provides that the Community is to support and complement the activities of the Member States with a view to improving the working environment to protect workers' health and safety. Directives adopted on the basis of the aforementioned Article are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.
- (2) Directive 2003/88/EC of the European Parliament and of the Council <sup>(4)</sup> establishes minimum requirements concerning the organisation of working time, inter alia, in respect of daily and weekly rest periods, breaks, maximum weekly working time, annual leave and certain aspects of night work, shift work and patterns of work.
- (3) The third paragraph of Article 19 and the second subparagraph of Article 22(1) of Directive 2003/88/EC provide for a review before 23 November 2003.
- (4) More than ten years after the adoption of Council Directive 93/104/EC <sup>(5)</sup>, the initial Directive concerning the organisation of working time, it has become necessary to take into consideration new developments and demands from both employers and workers and provide the resources to meet the growth and employment objectives laid down by the European Council of 22 and 23 March 2005 in the context of the Lisbon strategy.
- (5) The reconciliation of work and family life is also an essential element for achieving the objectives set by the European Union in the Lisbon strategy, particularly for increasing the rate of employment amongst women. The aim is not only to create a more satisfactory working environment, but also to respond better to workers' demands, in particular those with family responsibilities. A number of amendments contained in this Directive are intended to permit greater compatibility between work and family life.
- (6) In this context, the Member States should encourage the social partners to conclude agreements at the appropriate level for improving the reconciliation of work and family life.
- (7) **It is necessary** to strengthen the protection of *the safety and health of workers in view of the challenge of new forms of organisation of working time, to introduce working-time models which provide opportunities for life-long learning for workers*, and also to strike a new balance between **the reconciliation of work and family life** on the one hand and more flexible organisation of working time on the other.
- (8) **According to the case law of the Court of Justice of the European Communities, the characteristic feature of the concept of 'working time' is the requirement to be present at a place determined by the employer and available to the employer in order to be able to provide services immediately, as necessary.**

<sup>(1)</sup> OJ C 267, 27.10.2005, p. 16.

<sup>(2)</sup> OJ C 231, 20.9.2005, p. 69.

<sup>(3)</sup> Position of the European Parliament of 11 May 2005 (OJ C 92 E, 20.4.2006, p. 292), Council Common Position of 15 September 2008 (OJ C 254 E, 7.10.2008, p. 26) and Position of the European Parliament of 17 December 2008.

<sup>(4)</sup> OJ L 299, 18.11.2003, p. 9.

<sup>(5)</sup> OJ L 307, 13.12.1993, p. 18. **||**.

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- (9) ***In circumstances where workers have not been afforded periods of rest, compensatory rest periods must be granted following periods of time spent on duty, in accordance with the relevant law, collective agreement or other agreement between the social partners.***
- (10) The provisions on the reference period for maximum weekly working time must also be re-examined, with the objective of adapting them to the needs of employers and workers, subject to safeguards for the protection of *the safety and health of workers*.
- (11) Whenever the duration of the employment contract is less than one year, the reference period should not be longer than the duration of the employment contract.
- (12) The experience gained in the application of Article 22(1) of Directive 2003/88/EC shows that the purely individual ***final*** decision not to be bound by Article 6 thereof ***is*** problematic with regard to the protection of *the safety and health of workers* and the freedom of choice of the worker. ***The derogation provided for in that provision should, therefore, cease to apply.***
- (13) ***It is important that where a worker has more than one employment contract, measures are taken to ensure that the worker's working time is defined as the sum of the periods of time worked under each of the contracts.***
- (14) In accordance with Article 138(2) of the Treaty, the Commission consulted management and labour at Community level on the possible direction of Community action in this field.
- (15) Following *that* consultation, the Commission considered that Community action was advisable and further consulted management and labour on the content of the envisaged proposal, in accordance with Article 138(3) of the Treaty.
- (16) Following *that* second phase of consultation, management and labour at Community level did not inform the Commission of their wish to initiate the process which could lead to the conclusion of an agreement provided for in Article 139 of the Treaty.
- (17) Since the objective of this Directive, namely modernising Community legislation concerning the organisation of working time, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (18) This Directive respects the fundamental rights and complies with the principles recognised by the Charter of Fundamental Rights of the European Union <sup>(1)</sup>. In particular, it is designed to ensure full respect for the right to fair and just working conditions referred to in Article 31 of the Charter, and in particular paragraph 2 thereof, which provides that 'every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave'.

(1) OJ C 364, 18.12.2000, p. 1.



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- (19) The implementation of this Directive should maintain the general level of protection afforded to workers as regards *safety and health* at work,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 2003/88/EC is hereby amended as follows:

1. In Article 2 the following points shall be inserted:

‘1a. “on-call time” means any period during which the worker has the obligation to be available at the workplace in order to intervene, at the employer’s request, to carry out his activity or duties;

1b. “workplace” means the place or places where the worker normally carries out his activities or duties and which is determined in accordance with the terms of the employment relationship or contract applicable to the worker;

1c. “inactive part of on-call time” means any period during which the on-call worker is on call within the meaning of point 1a but is not required by his employer to actually carry out his activity or duties;’

2. The following Articles shall be inserted:

#### ‘Article 2a

On-call time

***The entire period of on-call time, including the inactive part, shall be regarded as working time.***

***However, inactive parts of on-call time may, by collective agreement or other agreement between the social partners or by means of law or regulation, be calculated in a specific manner in order to comply with the maximum weekly average working time laid down in Article 6, subject to compliance with the general principles relating to the protection of the safety and health of workers.***

The inactive part of on-call time shall not be taken into account in calculating the daily or weekly rest periods laid down in Articles 3 and 5 respectively.

#### Article 2b

***Calculation of working time***

***Where a worker has more than one employment contract, the worker’s working time shall be the sum of the periods of time worked under each of the contracts.***

#### Article 2c

Reconciliation of work and family life

The Member States shall encourage the social partners at the appropriate level, without prejudice to their autonomy, to conclude agreements aimed at improving the reconciliation of work and family life.

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The Member States shall ensure, without prejudice to Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community (\*) and in consultation with the social partners, that:

- **employers inform workers well in advance of any change in the pattern of work, and**
- **workers have the right to request changes to their hours or patterns of work, and employers are required to consider such requests fairly, having regard to the flexibility needs of employers and workers. An employer may refuse such a request only if the organisational disadvantages for the employer are disproportionately greater than the benefit to the worker.**

(\*) OJ L 80, 23.3.2002, p. 29.'

3. Article 17 shall be amended as follows:

(a) ¶ paragraph 1 **shall be amended as follows:**

(i) *in the introductory part*, the words 'Articles 3 to 6, 8 and 16' shall be replaced by 'Articles 3 to 6, Article 8 and Article 16(a) and (c)';

(ii) **point (a) shall be replaced by the following:**

**'(a) chief executive officers (or persons in comparable positions), senior managers directly subordinate to them and persons who are directly appointed by a board of directors;'**

(b) in paragraph 2, the words 'provided that the workers concerned are afforded equivalent periods of compensatory rest' shall be replaced by 'provided that the workers concerned are afforded equivalent periods of compensatory rest **following periods of time spent on duty, in accordance with the relevant law, collective agreement or other agreement between the social partners**';

(c) in paragraph 3, in the introductory sentence, the words 'Articles 3, 4, 5, 8 and 16' shall be replaced by 'Articles 3, 4, 5, 8 and Article 16(a) and (c)';

(d) paragraph 5 shall be amended as follows:

(i) the first subparagraph shall be replaced by the following:

'5. In accordance with paragraph 2 of this Article, derogations may be made from Article 6 in the case of doctors in training, in accordance with the provisions set out in the second to the sixth subparagraphs of this paragraph.'

ii) the last subparagraph shall be deleted.

4. In Article 18, in the third paragraph, the words 'on condition that equivalent compensating rest periods are granted to the workers concerned' shall be replaced by 'on condition that equivalent compensating rest periods are granted to the workers concerned **following periods of time spent on duty, in accordance with the relevant law, collective agreement or other agreement between the social partners**'.

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5. Article 19 shall be replaced by the following:

*'Article 19*

*Limitations to derogations from reference periods*

▮ By way of derogation from Article 16(b), Member States shall have the option, subject to compliance with the general principles relating to the protection of the safety and health of workers, of allowing, for objective or technical reasons, or reasons concerning the organisation of work, the reference period to be set at a period not exceeding twelve months:

- (a) by collective agreement or agreement between the social partners, as laid down in Article 18; or
- (b) by legislative or regulatory provision following consultation of the social partners at the appropriate level, **in cases where workers are not covered by collective agreements or other agreements between the social partners, provided that the Member State concerned takes the necessary measures to ensure that the employer:**
- (i) **informs and consults workers or their representatives about the introduction of the proposed pattern of work and alterations thereto;**
  - (ii) **takes the necessary measures to prevent or remedy any health and safety risks that may be related to the proposed pattern of work**

In making use of the option pursuant to point (b) of the first paragraph, Member States shall ensure that employers respect their obligations as laid down in Section II of Directive 89/391/EEC.'

6. Article 22 shall be replaced by the following:

*'Article 22*

*Miscellaneous provisions*

1. Although the general principle is that the maximum weekly working time in the European Union is 48 hours and that in practice it is an exception for workers in the *European Union* to work longer, Member States may decide not to apply Article 6 **during a transitional period ending ... (\*)** provided that they take the necessary measures to ensure the effective protection of the safety and health of workers. Implementation of this option, however, shall be expressly laid down by a collective agreement or an agreement between the social partners at the appropriate level or by national law following consultation of the social partners at the appropriate level.

2. In any event, Member States wishing to make use of this option shall take the necessary measures to ensure that:

- (a) no employer requires a worker to work more than 48 hours over a seven-day period, calculated as an average for the reference period referred to in Article 16(b), unless he has first obtained the worker's agreement to perform such work. This agreement shall be valid for a period not exceeding **six months** and shall be renewable;
- (b) no worker shall be subjected to any detriment by his employer because he is not willing to give his agreement to perform such work or because he has withdrawn his agreement for any reason;

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- (c) an agreement given at:
- (i) the time of the signature of the individual employment contract **or during any probationary period**; or
  - (ii) during the first four weeks of the employment relationship

shall be null and void;



- (d) every worker shall be entitled to withdraw, with immediate effect, his agreement to perform such work during the first six months after *conclusion* of a valid agreement or during and up to three months after the probation period specified in his contract is completed, whichever is longer, by informing his employer in due time in writing that he is doing so. Thereafter, the employer may require the worker to give, in writing, advance notice thereof, which shall not exceed two months in duration;
- (e) the employer keeps up-to-date records of all workers who carry out such work and adequate records for establishing that the provisions of this Directive are complied with;
- (f) the records are placed at the disposal of the competent authorities, which may, for reasons connected with the safety *and* health of workers, prohibit or restrict the possibility of exceeding the maximum weekly working time;
- (g) the employer provides the competent authorities at their request with information on cases in which agreement has been given by workers to work for more than 48 hours over a period of seven days, calculated as an average for the reference period referred to in Article 16(b), and adequate records for establishing that the provisions of this Directive are complied with.



- (\*) **36 months after the entry into force of Directive 2009/.../EC of the European Parliament and of the Council [amending Directive 2003/88/EC concerning certain aspects of the organisation of working time].'**



7. Article 24 shall be replaced by the following:

*'Article 24*

*Reports*

1. Member States shall communicate to the Commission the texts of the provisions of national law already adopted or being adopted in the field governed by this Directive.
2. Member States shall report to the Commission every five years on the practical implementation of this Directive, indicating the viewpoints of the *social partners*.

The Commission shall inform the European Parliament, the Council, the European Economic and Social Committee and the Advisory Committee on Safety and Health at Work thereof.

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3. Every five years from 23 November 1996 the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive taking into account paragraphs 1 and 2.'



#### Article 2

Member States shall lay down rules on penalties applicable in the event of infringements of national provisions implementing this Directive and shall take all necessary measures to ensure that they are applied. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify these provisions to the Commission by ... (\*). Member States shall notify to the Commission any subsequent amendments to those provisions in good time. They shall, in particular, ensure that workers and/or their representatives have adequate means of enforcing the obligations under this Directive.

#### Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... (\*), or shall ensure that the social partners introduce the necessary provisions by way of an agreement, whereby the Member States must make all the necessary arrangements to enable them to guarantee at any time that the objectives of this Directive are being attained. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

#### Article 4

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

#### Article 5

This Directive is addressed to the Member States.

Done at ..., on ...

For the European Parliament  
*The President*

For the Council  
*The President*

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(\*) Three years after the date of entry into force of this Directive.

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**Cross-border enforcement in the field of road safety \*\*\*I**

P6\_TA(2008)0616

**European Parliament legislative resolution of 17 December 2008 on the proposal for a directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety (COM(2008)0151 — C6-0149/2008 — 2008/0062(COD))**

(2010/C 45 E/48)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0151),
  - having regard to Article 251, paragraph 2 and Article 71, paragraph 1(c) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0149/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0371/2008),
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 Commission.

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**P6\_TC1-COD(2008)0062**

**Position of the European Parliament adopted at first reading on 17 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1)(c) thereof,

Having regard to the proposal from the Commission **||**,Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

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<sup>(1)</sup> OJ C ...

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Having regard to the opinion of the Committee of the Regions <sup>(1)</sup>,

Having regard to the opinion of the European Data Protection Supervisor <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) The European Union is pursuing a policy to improve road safety with the objective of reducing fatalities, injuries and material damage. Consistent enforcement of sanctions for road traffic offences which are known to considerably *jeopardise* road safety is an important instrument for achieving this objective.
- (2) However, sanctions in the form of financial penalties for certain road traffic offences are often not enforced if they are committed with a vehicle which is registered in a Member State other than the Member State where the offence took place because of a lack of appropriate mechanisms.
- (3) In order to improve road safety throughout the European Union and to ensure equal treatment between resident and non-resident offenders, enforcement should be facilitated irrespective of the Member State in which the vehicle with which an offence has been committed is registered. To this end, a system of cross-border exchange of information should be put in place.
- (4) Such a system is of particular value in relation to road traffic offences detected by automated devices where the identity of the offender cannot immediately be established, such as speeding or failing to stop at a red traffic light. It is also useful in order to enable the follow-up of offences where verification of the vehicle registration details may be necessary, in the case where the vehicle has been stopped. This is notably the case for drink driving.
- (5) The types of road traffic offences to be covered by this system should reflect their seriousness in terms of endangering road safety and should cover offences which are qualified as traffic offences in the laws of all Member States. It is accordingly appropriate to make provision in relation to speeding, drink-driving, non-use of a seat-belt, and failing to stop at a red traffic light. The Commission will continue to monitor developments across the *European Union* in respect of other road traffic offences with serious implications for road safety. **Following the submission of a report on the implementation of this Directive two years after its entry into force, the Commission should, if appropriate, propose a revision of the Directive regarding the possibility of extending its scope to include any other categories of road traffic infringements.**
- (6) **To guarantee a sufficient degree of road safety and to ensure that the financial penalties applicable are proportionate, the Commission should hold discussions with the Member States on the introduction of harmonised fixed financial penalties for road traffic infringements and should also encourage the exchange of best practices between Member States.**

<sup>(1)</sup> OJ C ...

<sup>(2)</sup> OJ C 310, 5.12.2008, p. 9.

<sup>(3)</sup> Position of the European Parliament of 17 December 2008.



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- (7) In order to ensure its effectiveness, the system of enforcement should cover the phases between the detection of an offence and the sending of an offence notification, based on a standard model, to the holder of the registration certificate of the vehicle concerned. Once a final decision has been taken, **|| Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties <sup>(1)</sup> of 24 February 2005 may apply. Where that Framework Decision cannot be applied, for example because sanction decisions do not fall within the scope of criminal law, the effectiveness of the sanctions should nevertheless be ensured by other sanction enforcement measures. A minimum standard ought to be introduced for offence notifications, including the reply form and by using more compatible methods of sending them so that cross-border enforcement becomes more reliable and more effective.**
- (8) Further, the cross-border exchange of information should be carried out rapidly by electronic means. To this end, **it is desirable that secure Community electronic networks be set up, enabling the exchange of information to be carried out in secure conditions and ensuring the confidentiality of the data transmitted.**
- (9) Since the data relating to the identification of an offender is personal, Member States must take the measures necessary to ensure that 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 on the free movement of such data <sup>(2)</sup> is complied with. **The offender should be informed accordingly, when notified of the offence, of his or her rights regarding access to, rectification of and deletion of data and of the maximum legal period for which the data can be kept.**
- (10) **Apart from the temporary nature of their storage, data collected under this Directive should not, under any circumstances, be used for purposes beyond what is required in order to follow up road safety offences. The Commission and the Member States should accordingly ensure that the processing of personal data and the management of the Community electronic network will serve to prevent any data collected from being used for purposes other than those specifically related to road safety.**
- (11) **As far as road safety controls are concerned, Member States should harmonise their methods so that their practices are comparable at EU level. Minimum standards on control practices should thus be developed in each Member State.**
- (12) **Technical equipment for road safety controls should also be harmonised in future in order to ensure the convergence of control measures between Member States. Technical harmonisation of this kind should be proposed by the Commission during the revision referred to in Article 14.**
- (13) **The Commission and Member States should take whatever measures are necessary to inform, and raise the awareness of, EU citizens as regards the implementation of this Directive. Appropriate information on the consequences of a failure to comply with road safety rules may thus have a deterrent effect upstream on the commission of road traffic offences.**
- (14) **The Commission should focus in the future on facilitating cross-border enforcement of road traffic infringements, in particular those related to serious traffic accidents.**

<sup>(1)</sup> OJ L 76, 22.3.2005, p. 16.

<sup>(2)</sup> OJ L 281, 23.11.1995, p. 31.

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- (15) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (16) In particular, power should be conferred on the Commission to adopt measures concerning the adaptation of the Annex. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (17) Since the *objective* of this Directive, namely facilitating the cross-border enforcement of sanctions for certain road traffic offences, cannot be sufficiently achieved by the Member States themselves and can therefore, by reason of their scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity enshrined in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, this Directive does not go beyond what is necessary in order to achieve *that objective*,

HAVE ADOPTED THIS DIRECTIVE:

## Chapter I

### General provisions

#### Article 1

##### Subject matter and scope

1. This Directive establishes a system to facilitate the cross-border enforcement of sanctions for the following road traffic offences:
- (a) speeding;
  - (b) drink-driving;
  - (c) non-use of a seat-belt;
  - (d) failing to stop at a red traffic light.
2. This Directive only applies insofar as the sanction to be imposed for the offence concerned is or includes a financial penalty.

#### Article 2

##### Definitions

For the purpose of this Directive the following definitions shall apply:

- (a) 'holder' means the holder of the registration certificate of the vehicle concerned, **including motorcycles**;
- (b) 'State of offence' means the Member State where the offence has been committed;
- (c) 'State of residence' means the Member State where the vehicle with which the offence has been committed is registered;

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23. ▯

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- (d) 'competent authority' means **a single contact point in each Member State responsible for facilitating the implementation of this Directive;**
- (e) 'central authority' means **the authority responsible for ensuring data protection in each Member State;**
- (f) 'final administrative decision' means **any final decision requiring a financial penalty to be paid, other than a decision falling within the definition of Article 1 of Framework Decision 2005/214/JHA;**
- (g) 'speeding' means exceeding speed limits in force in the State of offence for the road or type of vehicle concerned;
- (h) 'drink-driving' means driving with a blood alcohol level higher than the maximum level in force in the State of offence;
- (i) 'non-use of a seat belt' means failing to comply with the requirement to wear a seat-belt or use a child restraint in cases where the use of such equipment is mandatory in accordance with Council Directive 91/671/EEC <sup>(1)</sup> or the national law in the State of offence;
- (j) 'failing to stop at a red traffic light' means the offence of driving through a red traffic light as it is defined in the law of the State of offence.

### Article 3

#### *EU-wide road safety guidelines*

**1. With a view to pursuing a road safety policy aiming for a high level of protection for all road users in the European Union and taking into account the widely differing circumstances within the European Union, Member States shall act, without prejudice to more restrictive policies and laws, in order to provide for a minimum set of road safety guidelines within the scope of this Directive. To achieve that aim, the Commission shall adopt EU-wide road safety guidelines in accordance with the regulatory procedure with scrutiny referred to in Article 13(2). The guidelines shall conform to the basic principles set out in this Article.**

**2. As regards speed, the use of automatic checking equipment on motorways, secondary roads, and urban roads shall be encouraged in particular on those sections of the road network where the number of accidents caused by speeding is higher than average.**

**The recommendations adopted for the purposes of these guidelines shall seek to ensure that the number of speed checks using automatic equipment increases by 30 % in Member States where the number of road fatalities on is above the EU average and the fall in the number of road fatalities on since 2001 is below the EU average. A good geographical coverage of the territory of each Member State shall be ensured.**

**3. As regards drink-driving, Member States shall, as a matter of priority, carry out random tests in places where, and at times when, non-compliance is frequent and the risk of accidents increases.**

**Member States shall ensure that at least 30 % of drivers can be tested annually.**

<sup>(1)</sup> Council Directive 91/671/EEC of 16 December 1991 on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 3,5 tonnes (OJ L 373, 31.12.1991, p. 26) **||**.

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4. *As regards the use of seat belts, intensive checking operations shall be conducted for at least six weeks in any one year by Member States where less than 70 % of road users wear seat belts, in particular in places where, and at times when, non-compliance is frequent.*

5. *As regards failure to stop at a red traffic light, automatic checking equipment shall be used primarily for junctions where the rules are often breached and a higher than average number of accidents occur as a result of driving through a red traffic light.*

6. *The guidelines shall recommend that Member States exchange good practices; in particular, they shall call on Member States which are most advanced in the area of automatic checking to provide technical assistance to those Member States which so request.*

## Chapter II

### Provisions facilitating cross-border enforcement

#### Article 4

##### Procedure for the exchange of information between Member States

1. When an offence has been committed in a Member State with a vehicle which is registered in another Member State, and the case is not sanctioned and closed immediately by an authority which is in charge of pursuing the offence in the State of offence, the competent authority in that State shall send the vehicle registration number and information concerning the place and date of the offence to the competent authority in the other Member States or the State of residence if this can be identified. It shall do so in the same circumstances and under the same conditions in which it would pursue that offence if committed with a vehicle registered in its own territory.

2. The competent authority in the State of residence shall transmit immediately the following information only to the competent authority in the State of offence:

- (a) the make and model of the vehicle which has the registration number concerned;
- (b) in cases where the holder of the registration certificate of the vehicle concerned is a natural person, the name, address, date and place of birth;
- (c) in cases where the holder of the registration certificate of the vehicle concerned is a legal person, the name and address.

3. ***Information exchange with regard to the processing of personal data and the free movement of data in this connection shall take place in compliance with Directive 95/46/EC.*** The competent authorities of the other Member States shall not store the information sent by the State of offence. ***This information shall be sent solely for the purposes of this Directive, and, upon conclusion of proceedings, all data must be verifiably deleted.***

#### Article 5

##### Use of an electronic network

1. Member States shall take all necessary measures to ensure that the exchange of information described in Article 4 is carried out by electronic means. For this purpose, Member States shall take all necessary measures to ensure that **a Community** electronic network based on common rules is set up no later than 12 months after the date mentioned in Article 15(1).

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2. Common rules concerning the implementation of paragraph 1 shall be adopted by the Commission by the date mentioned in *Article 15(1)* in accordance with the regulatory procedure **with scrutiny** referred to in *Article 13(2)*.

These common rules shall include in particular provisions on the following:

- (a) the format of the data exchanged;
- (b) the technical procedures for electronic exchange of the data between Member States, **guaranteeing the security and confidentiality of the data transmitted**;
- (c) **personal data security and protection rules to prevent data being used for purposes other than those for which they were intended**.

#### Article 6

##### Offence notification

1. Upon receipt of the information described in *Article 4(2)*, the authority in the State of offence which is in charge of pursuing the offences covered by this Directive shall send an offence notification to the holder. The notification shall be established on the basis of the model set out in the Annex.

2. The offence notification shall, **as a minimum**, contain **the subject of the notification, the name of the authority responsible for enforcing the financial penalties, the name of the competent authority responsible for applying this Directive and** a description of the relevant details of the offence concerned. **It shall specify** the amount of the financial penalty, **the simplest payment procedures, the date by when it must be paid**, the possibilities for **contesting** the grounds for **issuing** the offence notification and **for appealing** against a decision imposing a financial penalty, and the procedure to be followed in case of dispute or appeal.

3. **Any financial penalty imposed under this Directive shall be non discriminatory in terms of nationality and shall be imposed under the law of the State of offence.**

4. The offence notification shall inform the holder that he must complete a reply form **within a specified period** if he does not intend to pay the *financial penalty*. **It shall also inform the holder that, any refusal to pay, shall be communicated to the competent authority of the State of residence for enforcement of the decision.**

5. **The offence notification shall notify the holder that his or her personal data shall be treated in accordance with the provisions of Directive 95/46/EC and shall point out his or her rights as regards access, correction and deletion, as referred to in Article 11 of this Directive.**

6. **Should the holder not have been the driver at the time when the offence was committed, he or she shall supply the details of the identity of the driver in compliance with the law of the State of residence. This shall not apply where there is an agreement between two or more Member States aimed at dealing with problems arising from the implementation of this Article.**

7. The offence notification shall be communicated to the holder in the official language or languages of the State of residence, as specified by this State.

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8. The Commission may adapt the model offence notification in order to take account of technical developments. Those measures designed to amend non-essential **technical** elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 13(2).

9. *For the purposes of this Directive no financial penalty shall be issued in respect of an offence committed before the date of entry into force of this Directive.*

#### Article 7

##### *Follow-up of road traffic infringements*

1. *Where the financial penalty has not been paid and the procedures to be followed in the case of a dispute or appeal have been exhausted, Framework Decision 2005/214/JHA shall apply as regards the financial penalties referred to in Article 1 of that Framework Decision.*

2. *In cases of non-payment referred to in paragraph 1, but in respect of financial penalties which do not fall within the scope of that Framework Decision, the competent authority of the State of offence shall transmit the final decision to the competent authority of the State of residence for enforcement of the financial penalty.*

#### Article 8

##### *Recognition and enforcement of financial penalties*

1. *The competent authority of the State of residence shall, without any other formality, recognise a final administrative decision imposing a financial penalty transmitted to it pursuant to Article 7(2) and, without delay, take every step required to enforce it, except where it decides to invoke one of the following grounds for non-recognition or non-enforcement:*

- (a) *the law of the State of residence provides for immunity which makes enforcement of the decision impossible;*
- (b) *the party concerned has not been informed of his or her right of appeal and of the deadline for lodging such an appeal.*

2. *Enforcement of the decision imposing the financial penalty by the competent authority of the State of residence shall be governed by the law of the State of residence in the same way as a financial penalty in the State of residence.*

3. *The competent authority of the State of offence shall immediately inform the competent authority of the State of residence of any decision or measure which stands in the way of enforcement of the decision. The competent authority of the State of residence shall cease the enforcement of the decision as soon as it has been informed of that decision or measure by the competent authority of the State of the offence.*

#### Article 9

##### *Information transmitted by the State of residence*

*The competent authority of the State of residence shall forthwith inform the competent authority of the State of offence by any means in which the following is recorded in writing of:*

- (a) *the transmission of the decision to the competent authority;*

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- (b) *any decision not to enforce a decision together with the reasons justifying such a decision;*
- (c) *the enforcement of the decision as soon as it has been completed.*

#### Article 10

##### Central authorities

1. Each Member State shall designate a central authority to assist with the application of this Directive.
2. Each Member State shall communicate to the Commission within six months of the entry into force of this Directive the names and addresses of the central authorities designated pursuant to this Article.
3. The Commission shall communicate the information described in paragraph 2 to the other Member States.

#### Article 11

##### Right of access, correction and deletion

1. Without prejudice to the right of data subjects under national legislation pursuant to Article 12(a) of Directive 95/46/EC, any person shall have the right to obtain communication of their personal data recorded in the State of residence which was transmitted to the requesting Member State.
2. Without prejudice to the observance of the procedural requirements for appeal and the redress mechanisms of the Member State concerned, any person concerned shall have the right to obtain the correction of any inaccurate personal data or the deletion of any data recorded unlawfully without delay.
3. Data subjects can exercise the rights mentioned in paragraph 2 before the central authority of their country of residence.

#### Article 12

##### **Information for drivers in the European Union**

**1. Member States shall take appropriate action in order to provide road users with the necessary information about the measures implementing this Directive. Such information may be passed on through, among other organisations, road safety bodies, non governmental organisations active in the field of road safety or automobile clubs.**

**Member States shall ensure that the rules on speed limits are displayed on signs erected on every motorway crossing their borders.**

**2. The Commission shall post a summary of the rules in force in Member States in the field covered by this Directive on its website.**



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### Chapter III

#### Committee procedure

##### Article 13

##### Committee

1. The Commission shall be assisted by a Committee on road safety enforcement
2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

##### Article 14

##### Revision and report

1. **By ... (\*) the Commission shall submit a report to the Parliament and the Council on implementation of this Directive by the Member States and its effectiveness in terms of the goal of reducing the number of fatalities on the EU's roads.**
2. **On the basis of that report, the Commission shall consider how the scope of this Directive might be extended to cover other road traffic infringements.**
3. **In the same report the Commission shall put forward proposals to harmonise checking equipment on the basis of Community criteria and road safety checking procedures.**
4. **In the report the Commission shall further assess how the Member States have, on a voluntary basis, implemented the EU-wide road safety guidelines referred to in Article 3 and shall consider whether those recommendations contained in those guidelines should be made mandatory. If appropriate, the Commission shall submit a proposal amending this Directive.**

### Chapter IV

#### Final provisions

##### Article 15

##### Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest twelve months after its entry into force. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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(\*) **Two years after the entry into force of this Directive.**

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**Wednesday 17 December 2008***Article 16**Entry into force*

This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.

*Article 17**Addressees*

This Directive is addressed to the Member States.

Done at ..., on ...

For the European Parliament  
*The President*

For the Council  
*The President*

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ANNEX

FORM FOR THE OFFENCE NOTIFICATION

referred to in Article 6

[COVERPAGE]

[Name, address and telephone number of sender] [Name and address of addressee]

NOTIFICATION

of a traffic offence committed in ..... [name of Member State where the offence has been committed]

[the above text appears on this coverpage in all the official EU languages]

PAGE 2

On [date.....] a traffic offence committed with the vehicle with registration number .....

make ....., model ..... was detected by .....[name of the the responsible body].

You are registered as the holder of the registration certificate of the abovementioned vehicle.

The relevant details of the offence are described on page 3 below.

The amount of the financial penalty due for this offence is .....EUR / national currency.

Deadline for the payment is .....

If you do not pay this financial penalty, you are obliged to complete the attached reply form (page 4) and send it to the address shown. ***This reply form may be transmitted by [the competent authority of the State of offence] to [the competent authority of the State of residence] for enforcement of the sanction decision.***

**INFORMATION**

***This case will be examined by the competent authority in the State of offence.***

***If this case is not pursued, you will be informed within 60 days from receipt of the reply form.***

***If this case is pursued, the following procedure applies:***

***[to be filled in by the State of offence — what the further procedure will be, including details of the possibility and procedure of appeal against the decision to pursue the case. These details shall in any event include: name and address of the authority in charge of pursuing the case; deadline for payment; name and address of the relevant appeal body; deadline for appeal].***

## PAGE 3

## RELEVANT DETAILS CONCERNING THE OFFENCE

- (a) Data concerning the vehicle with which the offence has been committed:

Registration number:

Country of registration:

Make and model:

- (b) Data concerning the offence

Place, date and time where it occurred:

Nature and legal classification of the offence:

speeding, drink-driving, non-use of seatbelt or child restraint system, failing to stop at a red traffic light <sup>(1)</sup>

Detailed description of the offence:

Reference to the relevant legal provision(s):

Description of or reference to the evidence for the offence:

- (c) Data concerning the device that has been used for detecting the offence <sup>(2)</sup>

Type of device for detection of speeding, drink-driving, failing to stop at a red traffic light or non-use of seat belt <sup>(1)</sup>:

Specification of the device:

Identification number of the device:

Expiry date for the last gauging:

- (d) The result of the application of the device:

[example for speeding; other offences to be added:]

The maximum speed:

The measured speed:

The measured speed corrected for margin of error:

<sup>(1)</sup> Delete what is not applicable.

<sup>(2)</sup> Not applicable if no device has been used.

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PAGE 4

REPLY FORM

(please complete using block capitals and mark the applicable option)

A. Identity of the driver:

**Were you the driver of the vehicle at the time of the commission of the offence**

*(yes/no)*

**If yes, please complete the following:**

- Name and first name:
- Place and date of birth:
- Number of driving licence: ..... delivered (date): ..... and at (place):
- Address:

**If you were not the driver of the vehicle at the time of the commission of the offence, are you able to indicate the identity of the driver**

*(yes/no)*

**If yes, please complete the following in respect of the driver:**

- **Name and first name:**
- **Place and date of birth:**
- **Number of driving licence:** ..... **delivered (date):** ..... **and at (place):**
- **Address:**

B. List of questions:

(1) Is the vehicle, make ..... registration number ..... registered in your name?

yes/no

If not, the holder of the registration certificate is:

(name, first name, address)

(2) Do you acknowledge that you committed the offence?

yes/no

(3) If you do not acknowledge this, **and if you refuse to reveal the identity of the driver**, please explain why:

Please send the completed form within 60 days from the date of this notification to the following authority:

at the following address:



\_\_\_\_\_

Thursday 18 December 2008

## Mobilising the Solidarity Fund of the European Union

P6\_TA(2008)0619

**European Parliament resolution of 18 December 2008 on the proposal for a decision of the European Parliament and of the Council on mobilisation of the European Union 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)0732 — C6-0393/2008 — 2008/2317(ACI))**

(2010/C 45 E/49)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0732 — C6-0393/2008),
- 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 <sup>(1)</sup>, 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 <sup>(2)</sup>,
- 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 Solidarity Fund,
- having regard to the report of the Committee on Budgets and to the opinion of the Committee on Regional Development (A6-0474/2008),

1. Approves the decision annexed to this resolution;
2. 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;
3. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(2)</sup> OJ L 311, 14.11.2002, p. 3.

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### ANNEX

#### **DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2008**

**on mobilisation of the European Union 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 <sup>(1)</sup>, and in particular point 26 thereof,

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

Thursday 18 December 2008

having regard to Council Regulation (EC) No 2012/2002 of 11 November 2002 establishing the European Union Solidarity Fund <sup>(1)</sup>,

having regard to the Commission proposal,

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) Cyprus has submitted an application to mobilise the Fund, concerning a disaster caused by drought.

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 7 605 445 in commitment and payment appropriations.

#### Article 2

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

Done at Strasbourg, 18 December 2008.

For the European Parliament  
*The President*

For the Council  
*The President*

<sup>(1)</sup> OJ L 311, 14.11.2002, p. 3.

## **Mobilisation of the Flexibility Instrument: facility for a rapid response to soaring food prices in developing countries**

P6\_TA(2008)0620

**European Parliament resolution of 18 December 2008 on the proposal for a decision of the European Parliament and of the Council on mobilisation of the Flexibility Instrument, in accordance with point 27 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)0833 — C6-0466/2008 — 2008/2321(ACI))**

(2010/C 45 E/50)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0833 — C6-0466/2008),
- 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 <sup>(1)</sup> (IIA), and in particular point 27 thereof,

<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.



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- having regard to the conclusions of the European Council of 19 and 20 June 2008,
  - having regard to the results of the trilogue of 4 December 2008,
  - having regard to the report of the Committee on Budgets (A6-0493/2008),
- A. whereas the European Parliament firmly supports the initiative of the Commission to create a new facility for rapid response to soaring food prices in developing countries (the 'Food Facility'), the idea of which had also been endorsed by the European Council of 19 and 20 June 2008,
- B. whereas the European Parliament and the Council, at the conciliation meeting of 21 November 2008, agreed on the financing for the 'Food Facility' for a total amount of EUR 1 billion over three years,
- C. whereas the initial proposal of the Commission envisaged financing the 'Food Facility' from the margin of heading 2 of the Multiannual Financial Framework (MFF), but this approach was rejected both by the European Parliament and the Council,
- D. whereas the European Parliament considered that the most appropriate solution would be the revision of the ceiling of heading 4 of the MFF but the Council rejected this option,
- E. whereas the two branches of the budgetary authority finally agreed to finance the 'Food Facility' through an optimal combination of the Instrument of Flexibility, the Emergency Aid Reserve and redeployment within heading 4 from the Instrument for Stability,
- F. whereas both branches of the budgetary authority agreed that the Flexibility Instrument shall contribute to financing the 'Food Facility' through the mobilisation of a total of EUR 420 million for the 2009 budget, out of the EUR 730 million available under this instrument,
- G. whereas this is the second consecutive year that this instrument has been used out of the three years of the IIA's legal existence,
- H. whereas this shows that the insistence of the European Parliament on having this kind of instrument with such characteristics as it has — notably the possibility of 'carry over' of non-utilised funds — in the IIA was well founded, despite the resistance of several Member States,
- I. whereas it also shows — as does the recurrent need to utilise other exceptional mechanisms to deal with urgent unforeseen situations — that there is a persistent problem of the funds available under the ceilings of certain headings in the MFF being insufficient, notably in heading 4,
1. Welcomes the agreement reached during the conciliation on the use of the Flexibility Instrument in favour of the 'Food Facility' for a total amount of EUR 420 million for the budget 2009;
  2. Approves the decision annexed to this resolution;
  3. Reiterates, however, its concerns about the fact that heading 4 has been under permanent pressure due to its limited available margin, which necessitates repeated mobilisation of flexibility mechanisms under this heading in order to respond to urgent unforeseen situations; calls for a thorough evaluation of the necessity to increase the amounts available under this heading in order to allow for the smooth development of long-term programmable activities in this area and secure the Union's capacity to fully play its role as a global actor in the international sphere;

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4. 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;
5. Instructs its President to forward this resolution, including its annex, to the Council and the Commission.

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ANNEX

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 18 December 2008  
on mobilisation of the Flexibility Instrument in accordance with point 27 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 <sup>(1)</sup>, and in particular the fifth paragraph of point 27 thereof,

having regard to the proposal from the Commission,

Whereas, at the conciliation meeting on 21 November 2008, the two arms of the budgetary authority agreed to mobilise the Flexibility Instrument to complement the financing in the 2009 budget, beyond the ceilings of heading 4, of EUR 420 million towards the financing of the facility for a rapid response to soaring food prices in developing countries.

HAVE DECIDED AS FOLLOWS:

*Article 1*

For the general budget of the European Union for the financial year 2009, the Flexibility Instrument shall be used to provide the sum of EUR 420 million in commitment appropriations.

That amount shall be used to complement the financing of the facility for a rapid response to soaring food prices in developing countries in heading 4.

*Article 2*

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

Done at Strasbourg, 18 December 2008.

For the European Parliament  
*The President*

For the Council  
*The President*

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<sup>(1)</sup> OJ C 139, 14.6.2006, p. 1.

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**Draft amending budget No 10/2008**

P6\_TA(2008)0621

**European Parliament resolution of 18 December 2008 on Draft amending budget No 10/2008 of the European Union for the financial year 2008, Section III — Commission (16264/2008 — C6-0461/2008 — 2008/2316(BUD))**

(2010/C 45 E/51)

*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 <sup>(1)</sup>, 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 <sup>(2)</sup>,
  - 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 <sup>(3)</sup>,
  - having regard to Preliminary draft amending budget No 11/2008 of the European Union for the financial year 2008, which the Commission presented on 7 November 2008 (COM(2008)0731),
  - having regard to Draft amending budget No 10/2008, which the Council established on 27 November 2008 (16264/2008 — C6-0461/2008),
  - having regard to Rule 69 of and Annex IV to its Rules of Procedure,
  - having regard to the report of the Committee on Budgets (A6-0481/2008),
- A. whereas Draft amending budget (DAB) No 10 to the General Budget 2008 covers the following items:
- mobilisation of the EU Solidarity Fund for an amount of EUR 7,6 million in commitment and payment appropriations following a serious drought in Cyprus,
  - a corresponding reduction in payment appropriations of EUR 7,6 million from the budget line 13 04 02 — Cohesion fund,
- B. whereas the purpose of DAB No 10/2008 is to formally enter this budgetary adjustments into the 2008 budget,
- C. whereas the Council has adopted Preliminary draft amending budget (PDAB) No 11/2008 as DAB No 10/2008, following the cancellation of DAB No 8/2008,
1. Takes note of Preliminary draft amending budget No 11/2008;
  2. Approves DAB No 10/2008 unamended;
  3. Instructs its President to forward this resolution to the Council and the Commission.

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<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> OJ L 71, 14.3.2008.

<sup>(3)</sup> OJ C 139, 14.6.2006, p. 1.

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## Draft general budget 2009 as modified by the Council (all sections)

P6\_TA(2008)0622

**European Parliament resolution of 18 December 2008 on the draft general budget of the European Union for the financial year 2009 as modified by the Council (all sections) (16257/2008 — C6-0457/2008 — 2008/2026(BUD)) and Letters of amendment Nos 1/2009 (SEC(2008)2435 — 13702/2008 — C6-0344/2008), 2/2009 (SEC(2008)2707 — 16259/2008 — C6-0458/2008) and 3/2009 (SEC(2008)2840 — 16260/2008 — C6-0459/2008) to the draft general budget of the European Union for the financial year 2009**

(2010/C 45 E/52)

*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 <sup>(1)</sup>,
- 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 <sup>(2)</sup>,
- 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 <sup>(3)</sup>,
- 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 its 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) and Letter of amendment No 1/2009 ((SEC(2008)2435 — 13702/2008 — C6-0344/2008) to the draft general budget of the European Union for the financial year 2009 <sup>(4)</sup>,
- having regard to its 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, Section IX — European Data Protection Supervisor (C6-0309/2008) <sup>(5)</sup>,
- having regard to Letters of amendment Nos 2/2009 (SEC(2008)2707 — 16259/2008 — C6-0458/2008) and 3/2009 (SEC(2008)2840 — 16260/2008 — C6-0459/2008) to the draft general budget of the European Union for the financial year 2009,
- having regard to its amendments and proposed modifications of 23 October 2008 to the draft general budget,
- having regard to the Council's modifications to the amendments and proposed modifications adopted by Parliament to the draft general budget (16257/2008 — C6-0457/2008),
- having regard to the results of the budget conciliation meeting of 21 November 2008, including the declarations annexed to this resolution,

<sup>(1)</sup> OJ L 253, 7.10.2000, p. 42.

<sup>(2)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(3)</sup> OJ C 139, 14.6.2006, p. 1.

<sup>(4)</sup> Texts Adopted, P6\_TA(2008)0515.

<sup>(5)</sup> Texts Adopted, P6\_TA(2008)0516.

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- having regard to the statement by the Council on the outcome of its deliberations on the amendments and proposed modifications adopted by Parliament to the draft general budget,
- having regard to Rule 69 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgets (A6-0486/2008),

**Key issues — outcome of the conciliation, overall figures and amending letters**

1. Recalls its political priorities for Budget 2009 as first set out in its resolutions of 24 April 2008 on the Commission's Annual Policy Strategy for 2009 <sup>(1)</sup> and on the budgetary framework and priorities for 2009 <sup>(2)</sup> and then further developed in 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 <sup>(3)</sup>; stresses that these political priorities, as finally expressed in its resolution of 23 October 2008 on the draft general budget of the European Union for the financial year 2009, Section III — Commission, were the guiding principles for its approach to the budgetary conciliation with Council for Budget 2009;
2. Welcomes the overall agreement on Budget 2009, reached in the traditional budgetary conciliation meeting with Council on 21 November 2008, especially with regard to the financing of the Food Facility; is extremely concerned, however, about the possible effects of a recession on European citizens and regrets, therefore, that at the conciliation meeting, the Commission was reluctant to disclose any information on the possible budgetary impact of its coming proposal on tackling the economic crisis;
3. Takes note of the Commission's Communication of 26 November 2008 to the European Council, entitled 'A European Economic Recovery Plan' (COM(2008)0800) and:
  - points out that this plan, if approved, will have a significant impact on Budget 2009 and requests the Commission to further clarify this impact by providing the European Parliament, as one arm of the budgetary authority, with further details on the scope of its proposal and concrete figures relating to its implementation particularly in respect of the financial programming;
  - undertakes to analyse the related budgetary implications and reiterates the commitment of Parliament and of the Council, as stated at the conciliation meeting, to respond with the appropriate financial means to the current economic crisis;
  - invites the Commission and the European Investment Bank to report regularly on their activities to combat the economic crisis;
4. Expresses its strong willingness to enter into negotiations with the Council on the basis of the Commission's proposal for a revision of the multi-annual financial framework (MFF) 2007-2013 for EUR 5 billion in the framework of the proposed European Economic Recovery Plan; takes note of the conclusions of the December 2008 European Council in that respect;
5. Insists that the current crisis not be used as a pretext to delay a much needed reorientation of spending towards 'green' investments, but should rather be used as an extra incentive to press ahead with such reorientation;

<sup>(1)</sup> Texts Adopted, P6\_TA(2008)0174.

<sup>(2)</sup> Texts Adopted, P6\_TA(2008)0175.

<sup>(3)</sup> Texts Adopted, P6\_TA(2008)0335.

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6. Reiterates, in this context, the importance of the budgetary review planned for 2009, which should not be limited to a theoretical vision what the budget could look like after 2013, but which should include bold proposals for a shift in programming at the time of the mid-term review of the multi-annual programmes to respond to the current crisis, taking into account the challenges posed by climate change;
7. Reiterates that initiatives for sustainable development, growth in jobs and support for SMEs and for research and innovation are of the utmost importance in the current economic situation and have to be top priorities reflected in the Union's budget for 2009; against this background, considers that the support for cohesion amongst regions has to be regarded as a key factor for stimulating economic growth throughout the Union; considers it essential that the political determination to make progress on tackling climate change and providing citizens with a safer Europe also become a budgetary priority, which must moreover be clearly visible in the EU budget; stresses that, in 2009 and in the years to come, the Union has to be in a position to fulfil its role as a global player, especially given recent challenges such as rising food prices;
8. Supports Letter of amendment No 1 to the Preliminary draft budget (PDB) 2009, in particular as it seems to give a slightly more realistic picture of needs in heading 4 than the PDB; takes note of Letter of amendment No 2/2009 in its traditional aspects of updating the figures underlying the estimate of agricultural expenditure in the PDB; takes note of Letter of amendment No 3/2009 aiming at covering — within Council's budget — the cost (EUR 1,06 million) of the reflection group set up by the European Council on 15-16 October 2008;
9. In respect of overall figures, sets the final level of commitment appropriations at EUR 133 846 million, equivalent to 1,03 % of EU GNI; sets the overall level of payments at EUR 116 096 million, equivalent to 0,89 % of EU GNI; notes that this leaves a significant margin of EUR 7 762 million beneath the payments ceiling of the MFF for 2009; underlines the joint commitment of both arms of the budgetary authority to a prompt provision of additional payment appropriations, particularly in the event of structural policies being more quickly implemented during the budgetary year;
10. Can accept the level of payments agreed with Council as part of the overall package at the conciliation meeting of 21 November 2008, but nevertheless reiterates its growing serious concern about the low payments and the subsequent disparity between the level of commitments and payments, which will reach an unprecedented extent in 2009; points out that there is some danger of future budgets becoming unrealistic if this development should not be halted; recalls that overall unpaid commitments (reste à liquider — RAL) reached an amount of EUR 139 000 million already in 2007;
11. Points out that Preliminary draft amending budget (PDAB) 10/2008 (COM(2008)0693), adopted by the Commission on 31 October 2008, decreases payment appropriations in budget lines from headings 1a, 1b, 2, 3b and 4, totalling EUR 4 891,3 million; notes that, at the same time, the Commission's request for the global transfer for 2008 amounts to a total of EUR 631 million for payments compared to EUR 426 million in the budgetary year 2007, and concerns 95 budget lines in 2008 compared to 65 budget lines in the global transfer for Budget 2007; is convinced that these manoeuvres in connection with payments in Budget 2008 will necessarily have effects on the level of payments needed in Budget 2009;
12. Attaches crucial importance, therefore, to the ready availability of higher payment appropriations through amending budgets, if those entered in Budget 2009 should prove insufficient, and highlights the commitments made in respect of this by the three institutions in the relevant joint declaration as agreed in the conciliation meeting;
13. Underlines the vital importance of effective budget implementation and of reducing unpaid commitments in light of this very modest overall level of payments; calls on the Commission and on Member States to do their utmost to implement, in particular, lines in heading 1b of the MFF, because this sub-heading not only finances numerous important policies and activities aimed at tackling climate change but also supports growth for jobs initiatives contributing to economic growth; stresses that improvement and simplification measures are needed in order to accelerate the implementation of structural and cohesion funds and invites

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the Commission, within the existing legal framework, to proceed rapidly with its compliance assessments of the Member States' management and control systems in order to facilitate the start of major projects; notes with great concern that the Commission has, on the basis of evidence, seen fit to cut EUR 220 million of funding for Bulgaria; asks the Commission to support both Bulgaria and Romania in their reforms and to report to Parliament every three months on problems or irregularities in implementing EU funds;

14. Insists that the Commission take the appropriate measures both at political and administrative level to undertake a concrete follow-up to the joint declaration on implementation of cohesion policy, as adopted at the conciliation meeting on 21 November 2008; undertakes to evaluate before the end of March 2009 whether sufficient progress has been made;

15. Welcomes the agreement on the EUR 1 billion financing over three years for the Food Facility, reached in the conciliation meeting; notes that a share of EUR 420 million will be financed by fresh money via the flexibility instrument, while EUR 340 million will come from the Emergency Aid Reserve, partly through an amendment of Point 25 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (IIA); acknowledges that the remaining EUR 240 million will be redeployed within heading 4 but expects the Commission to present a revised financial programme to ensure an orderly progression of the amounts planned up to 2013 despite this redeployment exercise and recalls the Commission's commitment to present to the budgetary authority an assessment of the situation within heading 4, accompanied, if necessary, by relevant proposals, in the course of 2009, taking into account political evolution as well as budget execution;

16. Reiterates its conviction that climate change measures are still not satisfactorily included in the EU budget and will support all efforts to increase and concentrate adequate financial resources to boost European leadership in dealing with the consequences of climate change; repeats its first reading invitation to the Commission to present, by 15 March 2009, an ambitious plan to improve the budget capability to deal with climate change issues; would like to seriously reflect on whether the Emissions Trading Scheme (ETS) could not be considered as a potential resource at EU level in the future;

17. Emphasises that Budget 2009 reinforces the safety and security of EU citizens by bolstering related actions and policies which concern mainly competitiveness, small and medium enterprises (SMEs), transport and energy security as well as securing external borders;

18. Has taken note of the Commission's Letter of Executability regarding the amendments to the draft budget adopted by Parliament at first reading; considers it unacceptable that the Commission presented this document at such a late stage in the procedure, thus rendering it far less useful than it could have been; insists that several important political issues require appropriate visibility in the Union's budget; decides to create new budgetary lines on climate change, on the Small Business Act (SBA), on the financial instrument for the adaptation of the fishing fleet to the economic consequences of fuel prices, on the EU Baltic Sea Strategy and on aid for rehabilitation and reconstruction of Georgia; has decided to take some of the Commission's comments into account in the second reading of the budget; will, however, abide by its first reading decisions especially in those cases in which sufficient time and effort has already been spent at an earlier stage on assessing how Parliament's amendments can best be implemented, as was the case with pilot projects and preparatory actions;

19. Welcomes the Commission's efforts to improve the presentation of its financial programming documents and wishes to stress once more that, in future, it expects to see all modifications the Commission has made to its financial programming clearly reflected in the programming documents to be presented in accordance with Point 46 of the IIA;



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20. Reminds the Member States of their obligations with regard to national management declarations under Point 44 of the IIA; reminds the Commission also of its responsibilities in that context, especially with regard to the political support it pledged to give to the initiative, but which has so far not materialised;

21. Reiterates that the reductions in the administrative expenditure lines of some multi-annual programmes that the budgetary authority has decided on for 2009 must under no circumstances lead to reductions in the overall co-decided envelopes of the programmes concerned; considers it clear that the Commission should compensate for the amounts reduced in later years of the programme period, preferably on the operational lines of the programmes;

### ***Specific issues***

#### *European Institute of Innovation and Technology*

22. Concerning the European Institute of Innovation and Technology (EIT), confirms its decision taken in Budget 2008 to include the EIT in the policy area 'Research' and to finance its governing structure, given its administrative nature, under heading 5 of the MFF; decides to change the nomenclature accordingly;

#### *School fruit scheme*

23. Deplores the fact that, for the second consecutive year, the Council has rejected Parliament's proposal for an amendment concerning the creation of a new line 05 02 08 12 — School fruit scheme; welcomes, however, the political agreement of the Council on the legal base for such a programme; expects the programme to start as soon as the legal base is adopted and in time for the 2009/2010 school year, as demanded by the European Parliament and agreed by the Council in its political agreement; regrets, therefore, that the Council did not accept the Commission's proposal to create already a token entry ('p.m.') in the budget;

#### *Food programme for the most deprived persons in the European Union*

24. Welcomes the financing proposed by the Commission and approved by the Council to improve the current food distribution programme for the most deprived persons in the Union by increasing the budget by two thirds to around EUR 500 million for 2009 and extending the range of products that can be provided;

#### *Communication policy*

25. Regrets the lack of consistency and coherence regularly evident in communication measures from the Commission; wishes for an adequate level of harmonisation in presentation of communication policy with the aim of developing one recognisable EU trademark to be used in all communication measures regardless of which Directorate-General of the Commission they come from; welcomes, in this context, the declaration on Communicating Europe in Partnership signed on 22 October 2008 by the European Parliament, the Council and the Commission;

26. Stresses that, in the context of this joint declaration, the European Parliament, the Council and the Commission have identified the information campaign for 2009 European elections as the top inter-institutional communication priority and urges, therefore, the Commission to fully cooperate on the 2009 European elections campaign, including by allocating the appropriate financial resources to this inter-institutional priority;



*Heading 4*

27. Expresses its regret that, once more, heading 4 has been under steady pressure since its available margins are not sufficient to finance priorities that have arisen in the course of the year without jeopardising its traditional priorities; reiterates its concerns that the funds available in this heading do not, as they stand, allow the Union to assume its role as a global player despite its various declarations of intent and expects the ongoing mid-term review of the current MFF to provide additional resources for the growing commitments under heading 4; fears that the Union's credibility in third countries may be irreversibly altered for the worse if, year after year, the budgetary authority is not able to provide the adequate financing to its political commitments;

28. Notes with concern that appropriations for commitments for Palestine in 2009 will amount to EUR 300 million, which represents a decrease of 21 % compared to the level of funds committed in 2008 after transfers; is aware, therefore, that the Commission will likely present transfer requests in the course of 2009 to increase appropriations for Palestine, and reiterates its call for sound and realistic proposals during budgetary procedures in order to avoid, as much as possible, massive transfers between chapters;

29. Notes that appropriations for assistance to Kosovo will only just suffice to keep pace with reforms and investment; recalls its various commitments to EU assistance in Kosovo and at the same time stresses the need for a functioning public administration; insists on a proper follow-up of the conclusions of the final report from the ITF (Investigation Task Force, which closed down its operation at the end of August 2008), as well as on the creation of a successor organisation for combating fraud and financial irregularities;

30. Welcomes the fact that the Union has decided to contribute to the reconstruction process in Georgia and has committed its financial assistance accordingly with a pledge of up to EUR 500 million over 3 years, based on certain political conditions; recalls its intention to identify EU assistance to Georgia within the European Neighbourhood Partnership Instrument (ENPI) on a separate budget line and asks the Commission to provide it regularly with an overview of the funds committed under various instruments as parts of the total pledge;

31. Notes with satisfaction that the Union has committed itself to tackling soaring food prices in developing countries and that an agreement has finally been reached on the financing of a food facility and that complementarity with the European Development Fund and visibility of EU assistance have been ensured; regrets, nevertheless, that once more, due to the constrained margins in heading 4, a part of the appropriations for financing this food facility could only be found through redeployment within the heading;

32. Takes note of the increasing amount of EU funds being channelled through international organisations; repeats its call for the Commission to make every effort to obtain as much information as possible on external and internal audits of institutions and programmes receiving EU funds;

33. Decides to maintain its first reading position as regards encouraging the economic development of the Turkish Cypriot community; welcomes the support for the exhumation, identification and return of remains of missing persons in Cyprus and undertakes to monitor its implementation;

*Heading 5*

34. Decides to maintain a reduced amount of the Commission's administrative expenditure (heading 5) in reserve, notably in the areas of staff and building expenditure, pending the fulfilment of the conditions agreed; believes that, taking into account the Commission's good work to provide requested information so far, the overall volume of these reserves should be manageable from an operational point of view while, at the same time, ensuring the political focus to achieve the necessary results;

35. Restores fully its first reading position as regards the 'other institutions', including the decision to front-load some building expenditure to 2009; emphasises that this approach, although increasing some outlays in the near future, is clearly more economical for the tax-payer in the longer term;

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36. Will continue to closely monitor 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; takes note of the fact that staffing levels of executive agencies will already go beyond 1 300 in 2009 and expects the Commission, in return, to adhere to its forecasts regarding the number of posts freed up in the relevant Directorates-General in 2009;

37. Notes with concern the situation of present and future young pupils in the European schools in Brussels resulting from the delayed and still pending opening of the fourth school in Laeken and the current enrolment procedure leading to long and unacceptable travelling times for the children; expects the Commission, in cooperation with the Secretariat General of the European schools in Brussels, to present a revised enrolment procedure by the end of March 2009 with objective and comprehensible criteria (including principal residence and already enrolled siblings), which will come into force with the next enrolment period;

#### *OLAF regulation*

38. Stresses the need to strengthen the efficiency of the European Anti-fraud Office (OLAF) and takes note of the Commission's intention to present a working paper concerning the clarification of the legal framework of OLAF's mission at the beginning of 2009; reiterates its call on the Council to present a calendar for the negotiations with Parliament concerning the Commission's proposals on Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) <sup>(1)</sup>;

#### ***Pilot projects and preparatory actions***

39. In respect of pilot projects (PP) and preparatory actions (PA), proposes a range of initiatives and innovative projects that respond to the real needs of the Union's citizens; has decided to allocate an amount of EUR 124,4 million to PP / PA for the budgetary year 2009, which is within the overall ceiling for such projects/actions of EUR 140 million, as agreed upon in the IIA;

40. Considers the final package of PP / PA adopted for 2009 to be well balanced and comprehensive and expects the Commission to implement the projects with the utmost care and dedication; expects not to be confronted with sudden obstacles to the implementation of the agreed PP / PA, given the excellent preparatory work that has already taken place within the Parliament and the Commission, but also between the two institutions, since the presentation of the PDB in spring 2008;

41. Expects the Commission to also report on the implementation of those proposed PP / PA which have not been included in Budget 2009 as such because the activities proposed are understood to be covered by an existing legal base; is prepared to monitor closely the implementation of these projects and actions under their respective legal bases during the financial year 2009;

#### ***Decentralised agencies***

42. Maintains its first reading position as regards restoring the amounts proposed in the PDB for decentralised agencies; insists 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 and decides to restore its first reading amendments to that end;

43. Decides to maintain the increase in the amounts for operational expenses of Frontex, in order to enable it to run permanent missions all year round; also decides to maintain the increase in the amounts for tackling illegal immigration, as well as for bolstering the European Refugee Fund to facilitate solidarity between Member States;

<sup>(1)</sup> OJ L 136, 31.5.1999, p. 1.

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44. In view of the expected modifications of the tasks of the Galileo Supervisory Authority, decides to maintain in the reserve one third of the amounts for its operational expenses pending the adoption of the revised legal basis, and to reduce the number of posts from 50 to 23, as agreed with the Commission, and, in consequence, to adapt the amounts for its administrative expenses; expects the Commission to present the revised proposal by 31 January 2009;

45. Decides to maintain in the reserve 10 % of the amounts for administrative expenses of European Food Safety Authority until it has been informed of the results of the 'Staff satisfaction survey' carried out in 2007 and of the measures taken to implement the conclusions of that survey, and until the responsible committee has given a clear signal in favour of releasing the reserve;

46. Has taken note of the large — nearly EUR 300 million — surplus of the Office for Harmonisation in the Internal Market in 2008; invites the Commission to reflect on how to deal with this situation and whether it might be appropriate for any excess income of the Office, being a direct consequence of the Internal Market, to flow back into the EU budget;

47. Reiterates the importance of respecting Point 47 of the IIA; asks the Commission to work with the budgetary authority on the definition of a proper detailed procedure for its application;

48. Considers essential the Commission's statement, included in its communication of 11 March 2008 on European Agencies — The way forward (COM(2008)0135), that it would not propose any new decentralised agency until the current evaluation process has been concluded; welcomes the Council's positive attitude with regard to the creation of an inter-institutional working group on the future of decentralised agencies, as proposed by the Commission, and expects the first meeting of this group to take place as soon as possible;

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\* \*

49. Instructs its President to declare that the budget has been finally adopted and arrange for its publication in the Official Journal of the European Union;

50. Instructs its President to forward this resolution to the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman, the European Data Protection Supervisor, and the other bodies concerned.

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ANNEX

**DECLARATIONS AGREED AT THE CONCILIATION MEETING  
of 21 November 2008**

**Joint declaration on the financing of a facility for rapid response to soaring food prices in  
developing countries**

*The European Parliament and the Council:*

— have taken note of the proposal made by the Commission <sup>(1)</sup> to establish a Facility for *rapid response to soaring food prices in developing countries* (hereafter 'Food Facility');

— have taken note of the Commission's request of EUR 1 billion for the Food Facility;

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<sup>(1)</sup> COM(2008)0450 of 18 July 2008.

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- have agreed to finance the Food Facility over a 3-year period within heading 4 of the multiannual financial framework.

*The European Parliament, the Council and the Commission agree to the financing of the Food Facility in the following way:*

- The total amount of EUR 1 billion available in commitments for the Food Facility will be shared out over the years as follows: EUR 262 million in 2008, EUR 568 million in 2009 and EUR 170 million in 2010.

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\* \*

- EUR 240 million in commitment appropriations will be redeployed within heading 4 from the Instrument for Stability (budget Article 19 06 01 01) of which EUR 70 million in 2009. Regarding the redeployments for 2010, the Commission is invited to present a revised financial programming in order to ensure an orderly progression of the amounts planned over the period 2010-2013, while keeping the annual level of the margin unchanged. The food prices crisis is a new and objective circumstance under the terms of Point 37 of the Interinstitutional Agreement (IIA) which justifies the redeployment from a non programmed crisis instrument.
- EUR 420 million in commitment appropriations will be made available through the mobilisation of the Flexibility Instrument for the 2009 budget.
- EUR 340 million in commitment appropriations will be made available through the Emergency Aid Reserve in the following manner:
  - EUR 22 million from appropriations still available in the 2008 budget;
  - EUR 78 million from the appropriations budgeted for the year 2009;
  - EUR 240 million through a one-off increase in the amount of the Emergency Aid Reserve to be budgeted in 2008.

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- The Commission will propose an amendment of the Interinstitutional Agreement on budgetary discipline and sound financial management (IIA) of 17 May 2006 as regards Point 25 to provide the additional funding required for the proposed Food Facility. The one-off increase in the commitment appropriations for the Emergency Aid Reserve for the year 2008 will be formalised by a joint decision of the three institutions amending the IIA of 17 May 2006.
- The budgetary authority will integrate the necessary amendments in the 2008 and 2009 budgets. For 2008, an additional amount of EUR 240 million in commitments will be entered into the budget for the Emergency Aid Reserve and the budget line for the Food Facility will be inserted. For 2009, an amount of EUR 490 million in commitments and of EUR 450 million in payments will be entered into the budget for the Food Facility. The budget line for the Instrument for Stability (budget line 19 06 01 01) will be reduced by EUR 70 million in commitments for 2009 to EUR 134,769 million.
- The Commission will present the corresponding requests for transfers from the Emergency Aid Reserve in 2008 and in 2009.

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- The redeployments agreed for 2010 within heading 4 will be integrated by the Commission into the financial programming 2010-2013 to be presented in January 2009 in accordance with Point 46 of the IIA.
- The payment schedule for the Food Facility is expected to be EUR 450 million in 2009, EUR 350 million in 2010 and EUR 200 million in 2011 and the following years, subject to authorisation of the budgetary authority in each annual budgetary procedure.

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The European Parliament, the Council and the Commission agree to amend, in this exceptional case and only for the year 2008, Point 25 of the Interinstitutional Agreement of 17 May 2006, in order to increase the amount of the Emergency Aid Reserve at EUR 479 218 000 for 2008. They affirm that this selective amendment of Point 25 of the IIA will in no way set a precedent.

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\* \*

The three institutions agree that the amendment of the Interinstitutional Agreement (IIA) for the Emergency

*'This amount shall be exceptionally increased to EUR 479 218 000 for the year 2008 in current prices.'*

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\* \*

The agreement contained in this joint declaration will be translated in the Food Facility Regulation of the European Parliament and the Council by amending the relevant sections referring to budgetary implications, in view of finalising the text in the first reading. The Commission will provide the appropriate technical assistance.

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## Declarations

### 1. Coordination of Community assistance (Food Facility and EDF)

*'The European Parliament, the Council and the Commission reaffirm the importance of coherence and consistency in the area of development assistance, in particular regarding the use of funds.*

Taking into account that ACP-countries could benefit from EU assistance from both the general budget of the European Union and the European Development Fund, the three Institutions declare that, when implementing the Facility for rapid response to soaring prices in developing countries (hereinafter "Food Facility"), special attention should be paid to the coordination of aid originating from these various sources in order to maximise the synergy and the possible results.

In this context, the concerned ACP-partner countries should also be encouraged to adapt, if necessary, the objectives and priorities of their programming regarding future cooperation under the EDF, ensuring consistency and complementarity with the objectives as foreseen by the Food Facility.

The Commission is invited to present a list of programmes financed by the EDF which could include elements related to food security.'

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## 2. Improving the visibility of Community assistance

*'The European Parliament and the Council stress that the visibility of Community assistance in third countries is a legitimate concern for the European Union and should be fully taken into account for donorship in a multi-annual context. With a view to maintaining public and political support for the EU external action, they call on the Commission to present together with the PDB for the year 2010 a report with a list of initiatives taken to improve the visibility of EU external aid, without compromising its efficiency and effectiveness, especially when implemented through international organisations.'*

## 3. Implementation of the Cohesion policy

*'Without prejudging the upcoming proposals from the Commission in the context of the economic downturn, the European Parliament, the Council and the Commission:*

- Recognise that, in view of the challenges posed by the current economic downturn, the economy may benefit from accelerating the implementation of structural and cohesion funds within the ceilings of the agreed multiannual financial framework 2007-2013;
- Recognise that, under the established control framework, interim payments cannot take place until management and control systems in Member States have been judged to be compliant with the requirements and, as concerns major projects, until such projects have been adopted by the Commission;
- Encourage the Member states to submit the description of their management and control systems and the compliance assessments as soon as possible so as to allow the Commission to rapidly start their analysis.

*Within this framework, the European Parliament and the Council:*

- Invite the Commission to take the necessary measures, within the existing legal framework, to rapidly assess the most critical aspects of the management and control systems (MCS), enabling starting the interim payments;
- Invite the Commission to accelerate the examination of applications for major projects so as to facilitate their start and related interim payments;
- Invite the Commission to cooperate closely together with the Member States in order to have a rapid agreement of all aspects of compliance of the MCS;
- Welcome the Commission's regular information to the budgetary authority through updated summary tables on MCS and major projects;
- Invite the Commission to submit a monthly report to the budgetary authority on the approval of the MCS and the major projects as well as the level of execution of interim payments for each Member State;
- Invite the Commission to present a report on the implementation together with the PDB for the purpose of the budgetary and discharge procedures;

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- Invite the Court of Auditors and the discharge authority to take this issue into account, as well as the multi-annual character of the Commission's control activity, when assessing the management of EU funds.

The *European Parliament* acknowledges that structural improvements and simplification measures are needed to avoid recurrent under-implementation and to ensure that payment appropriations develop in an orderly manner compared to commitment appropriations, as recalled by the Court of Auditors reports.'

#### 4. Agencies

*The European Parliament and the Council* have agreed on the Commission proposal for the creation of an Inter institutional working group on agencies and ask for the first meeting to take place as soon as possible.'

#### 5. Payment appropriations

*The European Parliament and the Council* ask 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) as it could be justified within the current legal framework in the light of a possible acceleration of the implementation of structural policies, Heading 2 (Preservation and management of natural resources) and Heading 4 (EU as a global partner).

The European Parliament and the Council will consider in that context the appropriate financing of any possible proposal that the Commission could make for new initiatives, particularly regarding the economic crisis.'

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### UNILATERAL DECLARATIONS

#### A. European Parliament declarations

##### 1. Evaluation of heading 4

*The European Parliament* asks the Commission to present in the context of the budget review an evaluation of the situation of heading 4, in order to examine and to review the role of the EU as a global partner in a multiannual context.'

##### 2. Payments and implementation of the Cohesion policy

*The European Parliament* expresses its deepest concern as to the extremely low level of payments, far below the MFF, which does not correspond to the real challenges of the European Union in a situation of economic crisis.

In particular, it expresses its deepest concern as to the unacceptable low level of implementation of the appropriations for the Cohesion policy, although this constitutes one of the fundamental policies of the European Union.

Calls on the Commission, and the Member States, responsible for the implementation of these appropriations, to adopt all measures possible to ensure its adequate implementation.'



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## B. Commission declaration

### Evaluation of heading 4

'Considering the absence of any margin under the expenditure ceiling of heading 4 in 2009, the Commission acknowledges that the capacity to respond to unforeseen crises is quite restrained and therefore commits to present to the budgetary authority an assessment of the situation within heading 4 accompanied, if necessary, by relevant proposals, in the course of 2009, taking into account the political evolution as well as budget execution.'

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### Council declaration on letter of amendment No 2/2009

*The Council declares that its agreement to the Commission's proposal in relation to programmes in favour of the most deprived persons, appearing in letter of amendment No 2/2009, does not prejudice the outcome of the examination of the legal basis currently under discussion.*

The deletion of the line concerning the programme to promote the consumption of fruit in schools is in accordance with the Council's traditional position of not creating a new budget line before the adoption of the relevant legal basis. This does not prejudice the outcome of the examination of the legal basis currently under discussion.'

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### Unilateral declaration by Greece, Italy, Spain and Portugal on multilingualism

*'Greece, Italy, Spain and Portugal, reiterating their attachment to the principles of multilingualism and equal treatment for all languages, express their concern with the management of the Commission regarding the safeguard of linguistic diversity and stress the need for the Commission and all Institutions and organs of the European Union to ensure that sufficient means are devoted to the full application of these principles.'*

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## Convention on International Interests in Mobile Equipment and its Protocol on matters specific to aircraft equipment \*

P6\_TA(2008)0623

**European Parliament legislative resolution of 18 December 2008 on the amended proposal for a Council decision on the conclusion by the European Community of the Convention on International Interests in Mobile Equipment and its Protocol on matters specific to aircraft equipment, adopted jointly in Cape Town on 16 November 2001 (COM(2008)0508 — C6-0329/2008 — 2008/0162(CNS))**

(2010/C 45 E/53)

(Consultation procedure)

*The European Parliament,*

— having regard to the amended proposal for a Council decision (COM(2008)0508),

— having regard to Article 61(c) and Article 300(2), first subparagraph, 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 (C6-0329/2008),
  - having regard to Rules 51 and 83(7) of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0506/2008),
1. Approves conclusion of the Convention and its Protocol;
  2. Instructs its President to forward its position to the Council and the Commission, and to the governments and parliaments of the Member States.

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### Safety of toys \*\*\*I

P6\_TA(2008)0626

**European Parliament legislative resolution of 18 December 2008 on the proposal for a directive of the European Parliament and of the Council on the safety of toys (COM(2008)0009 — C6-0039/2008 — 2008/0018(COD))**

(2010/C 45 E/54)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0009),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0039/2008),
  - 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, the opinion of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Industry, Research and Energy (A6-0441/2008),
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;

Thursday 18 December 2008

3. Takes note of the Commission statements annexed hereto;
4. Instructs its President to forward its position to the Council and the Commission.

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**P6\_TC1-COD(2008)0018**

**Position of the European Parliament adopted at first reading on 18 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council on the safety of toys**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/48/EC.)*

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ANNEX

COMMISSION STATEMENTS

**Commission statement on monitoring of safety aspects (Article 48)**

Following the entry into force of the revised Toys Safety Directive, the Commission will monitor closely all developments relating to its implementation in order to assess whether it provides for an adequate level of toy safety, notably as concerns the application of the conformity assessment procedures as laid down in Chapter IV.

The revised Toys Safety Directive provides for a reporting obligation of Member States on the situation concerning the safety of toys, the effectiveness of the Directive and market surveillance performed by Member States.

The evaluation by the Commission will inter alia be based on the Member States' reports to be submitted three years following the date of application of the Directive with a particular focus on market surveillance in the European Union and its external borders.

The Commission will report back to the European Parliament at the latest one year after submission of Member States' reports.

**Commission statement on the requirements concerning toys which are designed to emit a sound (point 10 of Part I of Annex II)**

Based on the new essential safety requirement for toys which are designed to emit a sound under the Toys Safety Directive, the Commission will mandate CEN to establish a revised standard which limits the peak values for both impulse noise and prolonged noise emitted by toys in order to adequately protect children from the risk of impairment of hearing.

Thursday 18 December 2008

**Commission statement on the classification of books**

Taking into account the difficulties related to the relevant tests required in the harmonised toy standards EN 71:1 for books made of cardboard and paper, the Commission will mandate CEN to establish a revised standard which covers adequate testing for children's books.

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**European Quality Assurance Reference Framework for Vocational Education and Training \*\*\*I**

P6\_TA(2008)0627

**European Parliament legislative resolution of 18 December 2008 on the proposal for a recommendation of the European Parliament and of the Council on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training (COM(2008)0179 — C6-0163/2008 — 2008/0069(COD))**

(2010/C 45 E/55)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0179),
- having regard to Article 251(2) and Articles 149(4) and 150(4) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0163/2008),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Culture and Education (A6-0438/2008),

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.

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**P6\_TC1-COD(2008)0069**

**Position of the European Parliament adopted at first reading on 18 December 2008 with a view to the adoption of Recommendation 2009/.../EC of the European Parliament and of the Council on the establishment of a European Quality Assurance Reference Framework for Vocational Education and Training**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Recommendation 2009/C 155/01 of 18 June 2009.)*

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Thursday 18 December 2008

## **European Credit System for Vocational Education and Training (ECVET) \*\*\*I**

P6\_TA(2008)0628

**European Parliament legislative resolution of 18 December 2008 on the proposal for a recommendation of the European Parliament and of the Council on the establishment of a European Credit System for Vocational Education and Training (ECVET) (COM(2008)0180 — C6-0162/2008 — 2008/0070(COD))**

(2010/C 45 E/56)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0180),
  - having regard to Article 251(2) and Articles 149(4) and 150(4) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0162/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Culture and Education (A6-0424/2008),
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.

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**P6\_TC1-COD(2008)0070**

**Position of the European Parliament adopted at first reading on 18 December 2008 with a view to the adoption of Recommendation 2009/.../EC of the European Parliament and of the Council on the establishment of a European Credit System for Vocational Education and Training (ECVET)**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Recommendation 2009/C 155/02 of 18 June 2009.)*

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Thursday 18 December 2008

**Securities settlement systems and financial collateral arrangements \*\*\*I**

P6\_TA(2008)0629

**European Parliament legislative resolution of 18 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (COM(2008)0213 — C6-0181/2008 — 2008/0082(COD))**

(2010/C 45 E/57)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0213),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0181/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs (A6-0480/2008),
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.

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**P6\_TC1-COD(2008)0082**

**Position of the European Parliament adopted at first reading on 18 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/44/EC.)*

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Thursday 18 December 2008

## **Deposit-guarantee schemes as regards the coverage level and the payout delay \*\*\*I**

P6\_TA(2008)0630

**European Parliament legislative resolution of 18 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 94/19/EC on Deposit Guarantee Schemes as regards the coverage level and the payout delay (COM(2008)0661 — C6-0361/2008 — 2008/0199(COD))**

(2010/C 45 E/58)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0661),
  - having regard to Article 251(2) and Article 47(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0361/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0494/2008),
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.

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**P6\_TC1-COD(2008)0199**

**Position of the European Parliament adopted at first reading on 18 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/14/EC.)*

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Thursday 18 December 2008

**Disclosure requirements for medium-sized companies and obligation to draw up consolidated accounts \*\*\*I**

P6\_TA(2008)0631

**European Parliament legislative resolution of 18 December 2008 on the proposal for a directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards certain disclosure requirements for medium-sized companies and obligation to draw up consolidated accounts (COM(2008)0195 — C6-0173/2008 — 2008/0084(COD))**

(2010/C 45 E/59)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0195),
  - having regard to Article 251(2) and Article 44(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0173/2008),
  - having regard to Rule 51 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 (A6-0462/2008),
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.

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**P6\_TC1-COD(2008)0084****Position of the European Parliament adopted at first reading on 18 December 2008 with a view to the adoption of Directive 2009/.../EC of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards certain disclosure requirements for medium-sized companies and the obligation to draw up consolidated accounts***(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Directive 2009/49/EC.)*

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*Key to symbols used*

- \* Consultation procedure
- \*\*I Cooperation procedure: first reading
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- \*\*\* Assent procedure
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(The type of procedure is determined by the legal basis proposed by the Commission.)

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