Proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry

2009/2212(INL) - 11/10/2011

The Committee on Constitutional Affairs adopted the own-initiative report by David MARTIN (S&D, UK) on a proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of the European Parliament's right of inquiry and repealing Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission.

Given the new institutional balance established by the Lisbon Treaty and the experience gained in the European Parliament's committees of inquiry, Members propose the **repeal of Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission and its replacement by a new Regulation**. Members consider that the committees of inquiry should be reinforces and granted specific, genuine and clearly delimited powers which are more in line with Parliament's political stature and competences, while respecting the principle of proportionality as set out in Article 5 of the Treaty on European Union.

The proposed regulation defines the detailed provisions governing the exercise by the European Parliament, in the context of the fulfilment of its tasks, of the right to investigate alleged contraventions or maladministration in the implementation of Union law.

This proposal for a regulation offers a clearer and more logical structure compared to the one provided by the old decision. The most important improvements can be found in Section 3 (Investigation).

The right of inquiry: a committee of inquiry should be able to carry out, within the limits of its mandate, any **investigation which it considers necessary in order to fulfil its task**, in particular to conduct on-the-spot investigations, to request documents, to summon witnesses, to hear officials and other servants of the Union or of Member States and to request experts' reports.

On-the-spot inspections: the committee of inquiry may conduct on-the-spot investigations which shall be conducted, where appropriate, in cooperation with the national authorities, in conformity with the provisions of national law.

Requests for documents: the inquiries must obey the principle according to which all conclusions of an inquiry should be based solely on elements which have evidential value.To this end, a committee of inquiry should have **access to all relevant documents** and to any information which may facilitate their work. They should be able to obtain such information both from Union and national bodies and from natural or legal persons.

Witnesses: committees of inquiry should be able to summon **any person who is resident in the European Union**, **including officials and other servants of the Union's institutions or of Member States**, as a witness who should be obliged to answer questions willingly, fully and truthfully.

Committees of inquiry **should respect in full** the rights of those called on by them to testify, in accordance with the European Convention for the protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union.

In line with the principle of loyal cooperation and with the commitment to contribute to the upholding of the legal order of the Union, the Union's institutions and bodies or the Member States should **designate the officials or servants** whom they authorise to appear before a committee of inquiry when the committee invites them to do so. Furthermore, it should be possible for a committee of inquiry to hear the Commissioners responsible for the matter under investigation if their testimony is considered to be of material importance and necessary for a thorough appraisal of the matter under investigation.

Committees of inquiry should also have the right to request witnesses to testify **under oath**. However, witnesses should not be obliged to take the oath. Formal note should be taken of every case where a witness declines to testify under oath, in order to allow for a fair comparative assessment of the evidential value of all testimonies.

Sanctions: in order to give effect to those provisions, to increase the efficiency of inquiries and to bring them more in line with national parliamentary practice, the proposed Regulation should provide for the possibility of effective, proportionate and dissuasive sanctions in well-defined cases; it should be up to Member States to ensure that certain infringements are subject to appropriate sanctions under their national law and that they bring appropriate proceedings against the perpetrators of such infringements.

Pre-litigation remedy:in order to ensure a wider range of effective remedies, a pre-litigation remedy within the European Parliament should be made available to natural or legal persons other than institutions and bodies of the Union and the Member States whereby such persons may contest decisions, taken in application of the provisions on investigation, which are addressed to them or of direct and individual concern to them. This remedy should be in addition to the judicial and extrajudicial remedies provided for by the treaties and the legal systems of the Member States.