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) - 23/05/2012 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted a proposal or 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

Parliament **decided to postpone the vote** on the motion for a resolution, pursuant to the third paragraph of Rule 41.

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 reinforced 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. 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.

The main points are as follows:

Setting-up and mandate of committees of inquiry: the European Parliament may set up such committees of inquiry at the request of one quarter of its component members. No committee of inquiry should be set up where the alleged facts are being examined before a court and while the case is still subject to legal proceedings. However, in order to avoid any conflict between inquiries of a political nature and those of a judicial nature, the European Parliament should be able to examine whether it is necessary to suspend the investigation of a committee of inquiry if, after it has been set up, legal proceedings bearing a relation to the alleged facts are initiated.

Principles of openness, good governance and democratic accountability: proceedings of committees of inquiry and in particular hearings should take place in public. Provision should also be made for the possibility of in-camera proceedings and appropriate rules on confidentiality in order to ensure the efficiency of the inquiries, the protection of the vital interests of Member States, the protection of privacy and the integrity of an individual, in particular in line with Union legislation on the protection of personal data, or the protection of commercial interests of a natural or legal person.

The right of inquiry: it is essential that a committee of inquiry be able to rely on factual evidence gathered in the course of its investigation. For this purpose, a committee of inquiry should be able to hear members of Union institutions and members of governments of Member States, obtain evidence from officials and other servants of the Union or of Member States, obtain evidence from any other individual residing in the Union, request experts’ reports, request documents and conduct on-the-spot investigations.

Human rights: investigations should be conducted with full respect for human rights and fundamental freedoms, in particular the principle of fairness, and for the right of persons involved to express their views on the facts concerning them.

Request for documents: investigations should also take into account the principle that the conclusions of an inquiry should be based solely on elements which have evidential value. To that end, a committee of inquiry should be able in particular to have access to any relevant documents in the possession of the Union's institutions or bodies, of Member States or, if the document is considered pertinent for the success of the inquiry, of any other natural or legal person.

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.

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.

Results of inquiries: the final report of the committee of inquiry shall be submitted to the European Parliament.

It may include minority conclusions provided that such conclusions are supported by at least one quarter of the committee's members. The European Parliament may forward to the institutions or bodies of the Union or to the Member States for transmission to the competent authorities any recommendations which it adopts on the basis of the final report.

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.