European Central Bank (ECB): powers to impose sanctions

2014/0807(CNS) - 12/11/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, in the framework of a special legislative procedure (Parliament's consultation), the report by Kay SWINBURNE (ECR, UK) on the draft Council regulation amending Regulation (EC) No 2532/98 concerning the powers of the European Central Bank to impose sanctions.

The committee approved the draft proposed in the recommendation of the European Central Bank (ECB) as amended:

Publication of administrative penalties: Members suggested **obliging the ECB as a general rule to publish** without undue delay its decisions to impose on an undertaking administrative pecuniary penalties for breaches of directly applicable Union law and sanctions for breaches of ECB regulations or decisions, both in the supervisory and non-supervisory fields or until all legal means of appeal have been exhausted.

Where the ECB deems that immediate publication of a decision would jeopardise the stability of financial markets or be disproportionate, considering the degree of severity of the administrative pecuniary penalty or sanction imposed on an undertaking, it should have the discretion to **delay the publication of the decision until three years after the date on which the decision was taken.**

Upon request the **ECB should hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the competent committee of the European Parliament** concerning such cases. The ECB should provide a justification for the delay in an annex to the published decision.

Division of competences between the ECB and the national competent authorities: in order to avoid conflicts of interest between authorities, Members recommended introducing, in the ECB Recommendation, an **explicit overall delineation of responsibilities**: without prejudice to their other specific competences derived from national law, the national competent authorities remain competent to impose administrative penalties but are to only impose such penalties on credit institutions directly supervised by the ECB if the ECB requires them to initiate proceedings for this purpose.

Time limits for administrative penalties: in its Recommendation, the ECB proposes that the right to take a decision to impose an administrative penalty on the infringement case expires five years after the infringement occurred. Members suggested **reducing the five year period to a three year period** which starts to run from the date on which the decision was taken to initiate infringement procedures, rather than the date on which the infringement occurred.

Although the ECB recommends that the time limit shall not exceed a period of ten years after the infringement occurred, Members suggested that the **time limit shall not exceed a period of seven years** after the date on which the decision to initiate an infringement procedure was taken or, in the case of a continued infringement, seven years after the infringement ceased.

Lastly, the report provides guidance as to which types of actions by the ECB should cause the limitation periods to be interrupted.