European Central Bank (ECB): powers to impose sanctions

2014/0807(CNS) - 26/11/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 361 votes to 118, with 223 abstentions, in the framework of a special legislative procedure (Parliament's consultation), a legislative resolution on the draft Council regulation amending Regulation (EC) No 2532/98 concerning the powers of the European Central Bank to impose sanctions.

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

Publication of administrative penalties:

- after notification to the undertaking concerned, **the ECB shall, according to a transparent procedure and rules which it shall make public, publish, as a general rule without undue delay** , any decision imposing on an undertaking administrative pecuniary penalties for breaches of directly applicable Union law and sanctions for breaches of ECB regulations or decisions, provided that all legal means of appeal against such a decision have been exhausted;
- where the ECB considers 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 shall 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 shall 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 shall 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.

Proceeds from sanctions: Parliament noted that the proceeds from sanctions imposed by the ECB in the exercise of its supervisory tasks, including the collection of statistical information, shall belong to the **Single Resolution Fund**.

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.

The resolution provides guidance as to which types of actions by the ECB should cause the limitation periods to be interrupted.

Dialogue with supervisors outside the Union: in light of the globalisation of banking services and the increased importance of international standards, the ECB should, in association with the competent authorities of participating Member States, establish a regular dialogue with supervisors outside the Union to foster international coordination and to agree on shared principles in the imposition and enforcement of sanctions.