Basic information

1997/2239(COS) COS - Procedure on a strategy paper (historic)	Procedure completed
Insurance sector: freedom to provide services and general good **Subject** 2.50.05 Insurance, pension funds	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs, Citizens' Rights	MOSIEK-URBAHN Marlies (PPE)	22/01/1998

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs, Industrial Policy	The committee decided not to give an opinion.	

Council of the European Union

Key events

Date	Event	Reference	Summary
10/10/1997	Non-legislative basic document published	SEC(1997)1824	Summary
29/01/1998	Committee referral announced in Parliament		
03/09/1998	Vote in committee		Summary
03/09/1998	Committee report tabled for plenary	A4-0307/1998	
21/10/1998	Debate in Parliament		
22/10/1998	End of procedure in Parliament		
09/11/1998	Final act published in Official Journal		

Technical information

Procedure reference	1997/2239(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper

Legal basis	Rules of Procedure EP 148
Stage reached in procedure	Procedure completed
Committee dossier	JURI/4/09399

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A4-0307/1998 OJ C 328 26.10.1998, p. 0003	03/09/1998	
Text adopted by Parliament, single reading		T4-0623/1998 OJ C 341 09.11.1998, p. 0106-0144	22/10/1998	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	SEC(1997)1824	10/10/1997	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1124/1998 OJ C 407 28.12.1998, p. 0038	09/09/1998	

Insurance sector: freedom to provide services and general good

1997/2239(COS) - 10/10/1997 - Non-legislative basic document

OBJECTIVE: submission of a draft interpretative communication from the Commission on freedom to provide services and the general good in the insurance sector. SUBSTANCE: the draft communication constitutes a consultation document which, in the light of the comments received, will be converted into a Commission interpretative communication, reflecting its position on the subject. It may be recalled that the Third Council Directives on insurance (92/49/EEC and 92/96/EEC) completed the establishment of the single market in the insurance sector: -introduction of a single system for the authorisation and financial supervision of the insurance undertaking by the Member State in which it has its head office (the home Member State); -authorisation issued by the home Member State enables the insurance undertaking to carry on its insurance business anywhere in the Community, either under the rules on establishment (i.e. by opening agencies or branches in all the Member States) or under the rules on freedom to provide services. Where it carries on business in another Member State, the insurance undertaking must comply with the conditions in which, for reasons of the general good, such business must be conducted in the host Member State. The Commission considers that there is continuing uncertainty surrounding the interpretation of the basic concepts of freedom to provide services and the general good, which could undermine the workings of the machinery set up by the Third Directives on the coordination of insurance and deter certain insurance undertakings from exercising the freedoms created by the single market. The Commission therefore puts forward, in this document, a legal analysis of the concept of 'the general good' specifically applicable to the insurance sector in order to clarify the situation. The Commission considers, in particular, that since the entry into force of the Third Directives on insurance, the conformity with Community law of a national measure restricting any of the activities referred to in the annex to the First Directives has had to be evaluated in the light of the requirements of the concept of the general good, whether the activities are performed by a branch or under the freedom to provide services. As regards the conditions in which the general-good rules of the host country may be imposed, the Commission makes the following distinction in its analysis: 1) discriminatory restrictions: such restrictions may only be justified on the grounds referred to in Article 56 of the EC Treaty, namely public policy, public security or public health (economic reasons are not among those permitted). In these cases, there is no need to invoke the general good; 2) non-discriminatory restrictions: in order to be legitimately enforceable against a Community insurance undertaking, any non-discriminatory national measure restricting an insurance activity covered by mutual recognition provisions must fulfil the following conditions: -it must be justified by the general good, -it must be necessary and proportionate, -it must not duplicate rules already applicable to the undertaking in the home Member State. At all events, if a dispute arises, it is up to the Member State which is imposing the restriction to prove that the measure meets these conditions. Under the case law of the Court of Justice, the fields covered by the general good notably include professional rules intended to

protect the recipient of the services, the protection of workers and consumers, the prevention of fraud, social order, the cohesion of the tax system, road safety, the proper administration of justice, the protection of creditors, etc. Even where a national restrictive measure is recognised as being for the general good, the host Member State must respect certain principles such as non-discrimination, non-duplication, necessity and proportionality. According to European case law, the concept of the general good constitutes an exception to the rules of freedom of movement, and it must therefore be interpreted restrictively. The draft communication also analyses several examples of national rules compliance with which could be required by the host State on the grounds of their compatibility with the general good: prior notification of policy conditions, the language of the insurance policy, uniform compulsory no-claims bonus systems, professional codes of conduct, clauses imposing mandatory levels of excess in insurance policies, etc.

Insurance sector: freedom to provide services and general good

1997/2239(COS) - 22/10/1998 - Text adopted by Parliament, single reading

Adopting the report by Mrs Marlies Mosiek-Urbahn (EPP, D) on freedom to provide services and the general good in the insurance sector, Parliament notes that it is still exceptional for insurance undertakings authorised in one Member State to provide services directly to an insured party in another Member State in the context of freedom to provide services (without a subsidiary company or branch being established in the latter Member State) and that there is not yet a genuine single market in this sector. Nevertheless, it deplores the fact that the excessive use by Member States of the concept of the 'general good' prevents insurance companies from expanding their activities and therefore supports the Commission decision to open its discussions with the Member States' authorities on the concept of 'the general good' to wider consultation. Parliament shares the Commission's view that the concept of 'general good' is best defined by means of 'subtraction', through the identification and description of areas that cannot be included in this concept. It encourages the Commission to continue to issue warnings and initiate proceedings in cases where it detects unjustified reference to the 'general good'.