


Procedure file

| Basic information | | |
|---|--------------------------------|---------------------|
| INI - Own-initiative procedure | 2003/2089(INI) | Procedure completed |
| European governance: operating framework for the European regulatory agencies | | |
| Subject 8 State and evolution of the Union 8.10 Revision of the Treaties, intergovernmental conferences | | |

| Key players | | | |
|---------------------|--|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | AFCO Constitutional Affairs | | 23/04/2003 |
| | | PPE-DE ALMEIDA GARRETT Teresa | |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | BUDG Budgets | | 17/06/2003 |
| | | PSE KUCKELKORN Wilfried | |
| | JURI Legal Affairs and Internal Market | | 07/07/2003 |
| | | PSE MEDINA ORTEGA Manuel | |
| European Commission | Commission DG Secretariat-General | Commissioner | |

| Key events | | | |
|------------|--|---|---------|
| 01/12/2002 | Non-legislative basic document published | COM(2002)0718 | Summary |
| 15/05/2003 | Committee referral announced in Parliament | | |
| 01/12/2003 | Vote in committee | | Summary |
| 01/12/2003 | Committee report tabled for plenary | A5-0471/2003 | |
| 13/01/2004 | Debate in Parliament |  | |
| 13/01/2004 | Decision by Parliament | T5-0015/2004 | Summary |
| 13/01/2004 | End of procedure in Parliament | | |

| Technical information | |
|-----------------------|----------------|
| Procedure reference | 2003/2089(INI) |

| | |
|----------------------------|--------------------------------|
| Procedure type | INI - Own-initiative procedure |
| Procedure subtype | Initiative |
| Legal basis | Rules of Procedure EP 54 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | AFCO/5/19531 |

Documentation gateway

| | | | | |
|---|---|------------|----|---------|
| Non-legislative basic document | COM(2002)0718 | 01/12/2002 | EC | Summary |
| Committee report tabled for plenary, single reading | A5-0471/2003 | 01/12/2003 | EP | |
| Text adopted by Parliament, single reading | T5-0015/2004 OJ C 092 16.04.2004, p. 0021-0119 E | 13/01/2004 | EP | Summary |

European governance: operating framework for the European regulatory agencies

PURPOSE : to present a communication from the Commission concerning the operating framework for the European Regulatory Agencies.

CONTENT : within the EU's legal system, there are various decentralised organisations which can be grouped together under the general umbrella of European agencies. These include 15 agencies created under the EC Treaty, one under the Euratom Treaty and four under the second and third pillars of the European Union. The creation of regulatory agencies in clearly defined areas of competence could help improve the way rules are applied and enforced across the EU. In the perspective of a growing role for regulatory agencies, the framework proposes detailed criteria concerning the creation of regulatory agencies, their functioning and control mechanisms. The aim is to enhance implementation and enforcement of Community rules while emphasising the unity and integrity of the executive function at the Community level. These agencies have certain formal characteristics in common: they were created by regulation in order to perform tasks clearly specified in their constituent Acts, all have legal personality and all have a certain degree of organisational and financial autonomy. However, their differences - in terms of internal structure, their relations with the institutions, responsibilities and powers - far outweigh their similarities. These differences arise from the fact that the agencies were created at different points in the past to meet specific requirements identified at the time. In other words, there is no single model for a European agency; there are several. In view of these great differences, some specialists have suggested that existing agencies be classified by various criteria, such as the institutional and legislative frame of reference, the tasks they have been delegated and the executive powers they have been given, etc. Each classification envisaged is made up of several categories of agencies. More pragmatic discussions conducted by the Commission have identified the profiles of two types of agencies: - Executive : Executive agencies are responsible for purely managerial tasks, i.e. assisting the Commission in implementing the Community's financial support programmes and are subject to strict supervision by it. The Commission has presented a proposal for a regulation to establish their general status in order to make it easier to set up an agency of this type whenever it is deemed to be suitable for implementing a specific programme. This proposal for a framework regulation is already at an advanced stage of examination by the Council after having elicited a favourable opinion from the European Parliament. - Regulatory ones : by contrast, regulatory agencies are required to be actively involved in the executive function by enacting instruments which help to regulate a specific sector. The majority of them are intended to make such regulation more consistent and effective by combining and networking at Community level activities which are initially a matter for the Member States. They are examined in detail in the White Paper on European Governance. The White Paper on European Governance proposes setting out a framework of conditions for the use of agencies, focusing on the regulatory agencies under the EC Treaty. There are many factors in favour of this proposal. Firstly, it is not possible to draw up a single framework covering all the prospective agencies, in view of the major differences between them. Nor is there any point in devising several different frameworks for the various categories of agencies. It is best therefore to concentrate on the above two types of agencies which are likely to play an important part at Community level in the immediate future in coping with the shortcomings the system is known to have. As mentioned above, a proposal for a regulation has accordingly been presented for the executive agencies but nothing of this nature is in the pipeline for the regulatory agencies as yet. Secondly, the conditions for the creation, operation and supervision of the regulatory agencies need to be more coherent and transparent than they are at present. At the moment, even within this fairly restricted category, there are differences in the internal structures, such as the composition and method of appointing the governing bodies; in their relations with the institutions, for example the role played by the Commission; and, especially, in their responsibilities and powers. Thirdly, criteria should be defined once and for all which guarantee greater effectiveness of the agencies' activities while ensuring that the agencies themselves fit in fully with the general scheme of the Treaty and its fundamental principles. In other words, an appropriate framework will make for a coherent approach to creating future regulatory agencies, by providing for an internal organisation which is up to the tasks the agency will be called upon to perform. It will also facilitate the decision-making process involved in the creation of each individual agency, by guaranteeing that its sound organisation and operation are not prejudiced by tactical considerations connected with particular sectors or interests. And, finally, use of agencies as an executive instrument will be governed by greater transparency vis-à-vis Europe's citizens. The Commission must ensure that the unity and integrity of the executive function at Community level is safeguarded.?

European governance: operating framework for the European regulatory agencies

The committee adopted the own-initiative report drawn up by Teresa ALMEIDA GARRETT (EPP-ED, P) in response to the Commission communication. It called on the Commission to define the framework conditions for the use of regulatory agencies by adopting a framework regulation, as it had done for 'executive agencies', which should be preceded by an interinstitutional agreement spelling out common guidelines. MEPs stressed that the creation of such agencies, in contrast to 'executive' agencies, required a legislative act and should be

confined to the codecision procedure, with use of the procedure under Article 308 of the EC Treaty being reserved for strictly exceptional cases. They added that decisions on the location of any future regulatory agencies should form an integral and vital part of the basic instruments establishing them and that the seats of the agencies should be near those of the authorities which are to supervise them. The report also stressed that the Financial Regulation and the Staff Regulations should apply to the regulatory agencies and proposed that use be made of sunset clauses whenever the continuity of an agency's tasks was not guaranteed. The Commission was urged, before submitting a legislative proposal to set up regulatory agencies, to submit an assessment of the budgetary implications and the viability of such agencies in comparison with centralised and similar activities, and to make specific proposals for restructuring administrative and staff resources with a view to avoiding additional operational costs. The committee said that the task of selecting and appointing the executive body of an agency, generally the director, should be left to the Commission, which bears "ultimate political responsibility" for the management of Community activities. The candidate chosen by the Commission should be invited to make a statement before the competent parliamentary committee and reply to questions by MEPs. On the committee's recommendation, Parliament should deliver an opinion on the proposed candidate. This 'ex-ante' political scrutiny by Parliament would be the natural complement to the 'ex-post' political scrutiny in the form of the discharge for the implementation of the budget. In addition to such political scrutiny, MEPs wanted the legality of the agency's acts to be easily scrutinised, and recommended that this be dealt with "clearly and comprehensibly" by the inclusion of specific clauses in the instrument establishing a regulatory agency. Lastly, the report said that the Commission should conduct a review of all the existing agencies with a view to proposing possible amendments to their basic instruments so as to adapt them to the models to be defined for the future regulatory framework.?

European governance: operating framework for the European regulatory agencies

The European Parliament adopted a resolution based on the own-initiative report drafted by Teresa ALMEIDA GARRETT (EPP-ED, P) on the operating framework for the European Regulatory Agencies. (Please see the document of 01/12/03). Parliament stressed that the choice in favour of creating an agency must be justified in each case on the basis of an external cost-benefit assessment, taking account of the nature of the tasks to be allocated, the need for non-statutory specialised staff and the desired degree of decision-making autonomy. The structure of future agencies may be differentiated in line with the degree of communitarisation in a specific area. The aim must be establish clear chains of responsibility whilst guaranteeing that the agency enjoys the necessary autonomy and credibility. With regard to external scrutiny of the agencies, this must comprise the following elements: - judicial supervision; - financial and budgetary control exercised jointly by Parliament, the Council and the Court of Auditors when the budget is drawn up and adopted and during the discharge procedure; - political scrutiny exercised primarily by Parliament, in particular through informal monitoring of the agency's work by the specialised parliamentary committees, scrutiny by the European Ombudsman in order to ascertain that administration is in accordance with sound management principles, and supervision by the agency's 'users' and the general public.?