Danuta Hübner
Chair of the Committee on Constitutional Affairs, European Parliament

Opening remarks on the accountability of supervisory authorities in financial services, in particular within the Banking Union

Special meeting of the Economic and Monetary Affairs Committee
European Interparliamentary Week on the European Semester
3 February 2015, European Parliament, Brussels

My comments today will not be focused on the politics of things, but rather on legalistic arguments. But I admit that political dimension of the accountability of the European governance framework is of great relevance today.

Our discussion today is certainly very topical. The European Parliament is in the midst of discussing the details of an inter-institutional agreement between the Single Resolution Mechanism (SRM) and the European Parliament. This, similarly to our work in the past, underlines the crucial importance played by accountability in a well-functioning European Banking Union.

Accountability is at the heart of democratic legitimacy of the European Union. Legitimacy in turn has two fundamental components, the input and the output side. Input legitimacy refers to public policy decisions being legitimate if they are the expression of the will of European citizens. Output legitimacy refers to decisions being considered legitimate if they meet the expectations and needs of citizens.

The ECB enjoys input legitimacy, being an institution which was established through an international treaty signed and ratified by all EU member states. Moreover, the members of the Executive Board and the members of the governing Council, are appointed by national governments and recently endorsed by the EP.

The ECB also enjoys output legitimacy. In effect, it delivers the public good of a stable and trusted currency. This allows the ECB to earn the public's support, while maintaining its intentional distance from the normal political process via its independence.

Of course there are natural difficulties in measuring the extent to which the Bank lives up to the expectations of European citizens. Instead, what we can do is subject the Bank to constant scrutiny, which is the case. And this scrutiny works rather well in practice.

In the case of the ECB, its independence does not undermine its accountability, they are complementary to each other. In this sense, the Bank needs to explain and justify to the European citizens and their elected representatives its use of the powers it has been entrusted with. It seems also legitimate to assume that the more independent an institution is, the more it has to invest in its accountability.

The creation of the Single Supervisory Mechanism (SSM) and the take-up of its duties last fall have added novel layers of intricacy to the ECB accountability issue.

The first problem is related to the legal basis of the banking union (127.6), which excludes the EP, as the elected body representing European citizens, from co-deciding. To a certain extent this legitimacy challenge was overcome by linking the SSM regulation to the revision of the European Banking Authority (EBA) regulation. Allow me to explain.

To set up the first pillar of the banking union, the SSM, the Commission came out not only with a proposal for its establishment but also with a proposal for a revision of the EBA regulation, in order to bring about changes in the EBA to make it compatible with the new single supervisor. The revision of the EBA regulation, unlike the SSM regulation, came under co-decision. Following a push from the European Parliament, a decision was made to treat the EBA and SSM regulation as a package under a co-decision umbrella.

Another accountability concern was the separation between monetary policy and supervision. The aim was to ensure that supervisory decisions did not impact the monetary side and vice versa. Here, the output legitimacy was at stake. On top of that, there is also the issue of a different scope of accountability, with ECB as monetary policy maker accountable to the EP only and the supervision authorities also accountable to national parliaments.
A third accountability challenge concerned the un-level playing field between euro and non-euro member states entering the close cooperation with the SSM. Here the decision backstop was more successfully solved than the fiscal backstop issue, but still even the decision mechanism remains somewhat disappointing. While the supervisory board of the SSM is composed of Eurozone members and opt-in member states, where voting rights are equally split between members, the final decisions on supervisory matters are taken by the governing council of the ECB, composed of Eurozone members only. The decision making backstop we pushed for consists of having the governing council be in a position to only approve or reject supervisory board decisions and not be allowed to make any amendments to such decisions.

Another accountability challenge was related to the fact that supervision makes decisions that have budgetary consequences at national level. Here the dilemma was to provide also national accountability mechanisms for the SSM, without creating the risk of supervisory fragmentation.

The SSM regulation contains in fact a section on national parliaments, under which it is clearly specified that the SSM's annual report is to be forwarded to national parliaments of participating member states, which in turn may address comments to the ECB. Moreover, national parliaments are in a position to invite the chair of the SSM supervisory board to an exchange of views concerning the supervision of credit institutions in that member state. The more indirect form of accountability held by national parliaments differs from the accountability held by national parliaments vis-à-vis their national supervisor. As explained previously however, this is justified.

We need to consider also the fact that the ECB supervises 120 banks directly and the remaining banks indirectly. So in a way we have a form of shared accountability with the national level.

As we can see, with supervision placed under the ECB umbrella, the central bank faces novel legitimacy challenges. Quite a few of them were additionally addressed through the inter-institutional agreement (IIA) concluded by the European Parliament with the central bank in parallel to the SSM regulation.

Via all the above actions, in the context of the SSM and in the ECB more generally, the central bank demonstrates how in effect transparency serves accountability.

The SSM and the banking union more generally come with an additional boost of accountability, as they promise to break the vicious link between banks and their sovereigns and taxpayers.

Can we do more? Yes we can.

It is certainly worth asking, whether we should aim at further improving the supervisory mechanism we have in place from the point of view of accountability.

The European Parliament still remains weak in essence in terms of the legal basis for the banking union. This problem is best captured by reaching out yet again to an intergovernmental agreement for the single resolution fund. Future treaty revisions will have to address this issue.

Finally, the accountability of supervision within the Banking Union also relates to other sectors. Output legitimacy can be affected by events and risks in related sectors (such as non-banking).