

Mechanisms for control by Member States of the Commission's exercise of implementing powers, 'Comitology Regulation'

2010/0051(COD) - 16/02/2011 - Final act

PURPOSE: to adopt the new "comitology" rules defining how Member States control the Commission's exercise of its implementing powers.

LEGISLATIVE ACT: Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

CONTENT: following first reading agreement with the European Parliament, the Council adopted a Regulation establishing new rules on how Member States control the Commission's exercise of its implementing powers.

According to **Article 291 of the Treaty on the Functioning of the European Union (TFEU)**, EU legislation ("basic acts") can confer on the Commission the power to adopt implementing acts where uniform conditions for implementing legally binding EU acts by Member States are needed.

The new Regulation puts this into practice and **replaces Council Decision 1999/468/EC** laying down the procedures for the exercise of implementing powers conferred on the Commission ("Comitology Decision") with regard to the consultation, management and regulatory procedures.

The Regulation establishes **two procedures** for controlling the Commission's exercise of implementing powers: an advisory and an examination procedure. Both involve committees composed of representatives of Member States and chaired by the Commission. **The Commission must ensure the widest possible support** within these committees.

The examination procedure: this applies in particular to measures of general scope (such as technical details related to the online collection system of statements of support for the European citizens' initiative) and specific measures with a potentially important impact, for instance in the field of agriculture, fisheries, environment, health, trade and taxation. It aims to ensure that Commission implementing acts are supported by a qualified majority of the committee. If the committee opposes the draft measures by qualified majority, the Commission must not adopt the draft implementing act; where an implementing act is deemed to be necessary, the Commission may either submit an amended version of the draft implementing act to the same committee within two months, or submit the draft implementing act within one month to the appeal committee for further deliberation. If the committee does not deliver an opinion, the Commission may adopt the draft act under certain conditions. Within this procedure, specific rules apply for trade policy.

The advisory procedure: this applies as a general rule to the adoption of implementing acts in other fields (such as individual measures in the field of culture). The Commission must take the utmost account of the committee's opinions, which are adopted by a simple majority.

European Parliament's and Council's right of scrutiny : the new Regulation stipulates that where the basic act has been adopted under the co-decision procedure, the European Parliament or the Council may at any time inform the Commission that it considers the proposed implementing act to exceed the powers

conferred on the Commission. In such a case, the Commission must review the draft act and decide whether to maintain, amend or withdraw it.

Transitional provisions: as article 290 applies since the entry into force of the Lisbon Treaty on 1 December 2009, the European Parliament and the Council may no longer provide for new "regulatory procedures with scrutiny" in new basic acts. For existing legislation, however, the "regulatory procedure with scrutiny" maintained.

Review: by 1 March 2016, the Commission shall present a report to the European Parliament and the Council on the implementation of this Regulation, accompanied, if necessary, by appropriate legislative proposals.

ENTRY INTO FORCE : 01/03/2011.