

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

2010/0051(COD) - 01/12/2010

The Committee on Legal Affairs adopted the report drafted by József SZÁJER (EPP, HU) on the proposal for a regulation of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission proposal as follows:

**Common provisions:** the report states that the **Chair shall not take part in the committee vote**. Except in duly justified cases, he or she shall convene a meeting not less than 14 days from the submission to the committee of the draft of the acts to be adopted and of the draft agenda. The committee shall deliver its opinion on the draft within a time-limit which the Chair may lay down according to the urgency of the matter. Time-limits shall be proportionate and shall afford representatives of the Member States early and effective opportunities to examine the draft acts and express their views.

Unless otherwise provided in the basic act, the written procedure shall be terminated without result where, within the time-limit referred to above, the Chair so decides or a committee member so requests. In such a case, the Chair shall convene a committee meeting within a reasonable time. The committee's opinion shall be recorded in the minutes. Each member of the committee shall have the right to ask to have his or her position recorded in the minutes. The Commission shall send the minutes to the committee members without delay.

**Control mechanism:** where applicable, the control mechanism shall include referral to an appeal committee. The appeal committee shall adopt its own rules of procedure by simple majority, on a proposal from the Commission. Where the appeal committee is seised, it shall meet at the earliest 14 days, except in duly justified cases, and at the latest six weeks, after the date of referral. The appeal committee shall deliver its opinion within two months from the date of referral. The Commission shall convene the first meeting of the appeal committee within one month after the entry into force of this Regulation in order to adopt its rules of procedure.

**Referral to the appeal committee:** the committee includes a new Article stipulating that the appeal committee shall deliver its opinion by the majority laid down in Article 16(4) and (5) of the Treaty on European Union and, where applicable, Article 238(3) of the Treaty on the Functioning of the European Union, for acts to be adopted on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in those Articles. Until an opinion is delivered, any member of the appeal committee may suggest amendments to the draft acts. The Commission may adapt the draft acts. The Chair shall endeavour to find solutions which command the **widest possible support** within the committee. He shall inform the appeal committee of the manner in which the discussions and suggestions for amendments have been taken into account, in particular as regards suggestions for amendments which are largely supported within the appeal committee. For that purpose, the Commission should pay particular attention to the views expressed within the committee or the appeal committee as regards draft definitive anti-dumping or countervailing measures.

If the appeal committee delivers a positive opinion, the Commission shall adopt the draft acts. If no opinion is delivered, the Commission may adopt the draft acts. If the appeal committee delivers a negative opinion, the Commission shall not adopt the draft acts. For the adoption of **definitive multilateral safeguard measures**, in the absence of a positive opinion voted by a qualified majority, the Commission shall not adopt the draft acts. For a period of 18 months after the entry into force of this Regulation the appeal committee shall deliver its opinion on definitive draft anti-dumping or countervailing measures by a simple majority of its component members.

**Adoption of acts in exceptional cases:** another new Article has been added stipulating that the Commission may adopt the draft acts where they need to be adopted without delay in order to avoid creating a significant disruption of the markets in the area of agriculture or a risk for the financial interests of the Union within the meaning of Article 325 of the Treaty on the Functioning of the European Union.

In such a case the Commission shall immediately submit the adopted acts to the appeal committee. Where the appeal committee delivers a negative opinion on the adopted acts, the Commission shall repeal those acts forthwith. Where the appeal committee delivers a positive opinion or delivers no opinion, those acts shall remain in force.

**Immediately applicable measures:** the Commission shall adopt acts which shall apply immediately and shall remain in force for a period not exceeding six months unless the basic act provides otherwise. At the latest 14 days after their adoption, the Chair shall submit the acts to the relevant committee in order to obtain its opinion. In the case of the examination procedure, where the committee delivers a negative opinion, the Commission shall immediately repeal the acts. Where the Commission adopts provisional anti-dumping or countervailing measures, the procedure provided for in this Article shall apply. The Commission shall take provisional action after consulting or, in cases of extreme urgency, after informing the Member States. In this case, consultations shall take place ten days, at the latest, after notification to the Member States of the action taken by the Commission.

**Rules of procedure:** each committee shall adopt by a majority of its component members its own rules of procedure on the proposal of its Chair, on the basis of standard rules which shall be drawn up by the Commission after consultation with Member States. Such standard rules shall be published by the Commission in the Official Journal of the European Union.

**Information on committee proceedings:** a **register** containing information on committee proceedings should be kept by the Commission. Consequently, rules relating to the protection of classified documents applicable to the Commission should also apply to the use of the register. In addition, the Commission shall publish an annual report on the work of the committees. At the same time as they are sent to the committee members, the Commission shall make available to the European Parliament and the Council documents concerning drafts acts, voting results, statistical data, etc whilst also informing them of the availability of such documents.

**Right of scrutiny for the European Parliament and the Council:** where the basic act is adopted under the **ordinary legislative procedure**, the European Parliament or the Council may at any time indicate to the Commission that they consider a draft implementing act to exceed the implementing powers provided for in the basic act. In such a case, the Commission shall review the draft measure in question, taking account of the positions expressed, and shall inform the European Parliament and the Council whether it intends to maintain, amend or withdraw the draft implementing act.

**Review clause:** no later than five years after the entry into force of this Regulation, 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:** the committee proposes that this Regulation should enter into force on 1 March 2011 (as opposed to 1 October 2010).