EP Rules of Procedure, Rules 87a and 88: delegated acts and implementing measures

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The Committee on Constitutional Affairs adopted the report drafted by Carlo CASINI (EPP, IT) on the amendment of Rules 87a and 88 of Parliament's Rules of Procedure.

The entry into force of the Lisbon Treaty brought about a radically change in the comitology procedure, turning it into a new system for adopting delegated acts and implementing acts.

The revision of the Rules of Procedure entailed by these changes stemming from the entry into force of the Lisbon Treaty also enables us to meet a request from the President of the European Parliament for a procedure which sets out more clearly the arrangements for the rapid approval of a delegated act or implementing act.

The new Rule 87a (delegated acts), in combination with the new Rule 88 (implementing acts), lays down the standard procedure to be followed, i.e. that involving consideration of the proposed delegated act or implementing act by a committee responsible without associated committees or committees jointly responsible. The procedure applicable in cases involving associated committees or committees jointly responsible is laid down in a new Rule 88a.

Delegated acts (Rule 87a): the new rule lay down the procedure to be followed when the Commission forwards a delegated act to Parliament. The new rule:

- specifies that the delegated act is to be referred to the committee responsible for the basic legislative act and gives that committee the option of appointing a rapporteur;
- specifies the juncture at which the period during which Parliament may raise an objection to the proposed delegated act starts to run;
- specifies that Parliament must take a decision by the deadline set in the basic legislative act and by the majority laid down in Article 290 TFEU.

Although, as a general rule, the committee responsible takes the lead in triggering an objection procedure, the aim is not that it should enjoy a monopoly of the right to do so. Accordingly, the new rule gives the Conference of Presidents the right to include the matter on the draft agenda for the plenary sitting, on the basis of a motion for a resolution tabled by a political group or at least 40 Members.

The procedure whereby Parliament declares, prior to the expiry of the deadline set in the basic legislative act, that it does not intend to raise objections to the delegated act needed to be formalised, in particular in order to enhance the legal certainty of any such decision. The procedure proposed is very largely based on that outlined in Rule 211 of the Rules of Procedure; at the same time it is made clear that a decision not to raise objections renders any subsequent proposal to object inadmissible.

Lastly, the last point lays down the procedure for revoking a delegation of powers provided for in the basic legislative act.

Implementing acts (Rule 88): prior to the entry into force of the Lisbon Treaty, the exercise of implementing powers by the Commission was governed by Council Decision 1999/468/EC of 28 June 1999. Regulation (EU) No 182/2011 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, which was adopted on the basis of Article 291(3) TFEU, sets out the arrangements governing the exercise (by the Commission, or, in specific cases, by the Council) of the implementing powers provided for by Article 291(2) TFEU.

Although the new provisions will apply immediately in respect of legislative acts adopted after the entry into force of the new Regulation 182/2011, during the period needed to bring the existing legislation into line a number of legislative acts will continue to be covered by the regulatory procedure with scrutiny pursuant to Article 5a of Decision 1999/468/EC.

Parliament argues that regulatory measures with scrutiny should become delegated acts when the existing legislation is adapted, it seems more appropriate to retain terminology which makes a clear distinction between implementing acts under Article 291 TFEU and measures which, for a transitional period, are still covered by the regulatory procedure with scrutiny.

Specific provisions governing procedures with associated committees or joint committee meetings (Rule 88a): the incorporation of the new Rule 88a reflects the need to take account of cases in which the basic act was adopted under the procedure provided for in Rule 50 or 51 of the Rules of Procedure. This new rule, which lays down the procedure to be followed in such cases, thus supplements the provisions of the preceding rules.