

Comitology: exercise of implementing powers conferred to the Commission

2002/0298(CNS) - 11/12/2002 - Legislative proposal

PURPOSE : to enhance the effectiveness of the decision-making process by clarifying the responsibilities and procedures and amend Decision 1999/468/EC. **CONTENT :** in accordance with Article 202 of the Treaty, responsibility for implementing rules laid down by the Council, possibly together with the European Parliament, lies, in principle, with the Commission. The Commission exercises its powers in accordance with the procedures established by the Council under Article 202 and in compliance with the arrangements made for this purpose in the legislative instruments adopted under the Treaty. Current developments in Community legislation show that it is increasingly common for legislative instruments to require additional measures to be adopted, whose technical principles and details must be established on the basis of sound analysis and expert opinion within suitable periods of time. Whenever this prompts the legislature to delegate wider powers to the Commission, it must have a say in the measures which the Commission plans to adopt. The procedures laid down in Decision 1999/468/EC do not provide a satisfactory means of dealing with this situation. Scrutiny by the European Parliament under Article 8 of Decision 1999/468/EC to determine whether the implementing powers are excessive has not proved effective enough and the authority that the Council can exercise may lead to confusion between executive and legislative powers or to an impasse in the decision-making process. The procedures laid down in Decision 1999/468/EC may also lead to the Commission having to adopt an instrument without an opinion from the Committee or reactions from the legislature. The problems presented by the procedure are as follows the imbalance between the two legislative arms in respect of executive acts relating to basic instruments adopted under the codecision procedure. The Parliament's part in the procedure is restricted to a control of legitimacy, whereas the council can alter the substance of the instrument. This is compounded by: - the absence of a clear distinction between the execution phase proper and the supervisory phase; - the risk of an impasse when adopting the measures in question where the council cannot put together a qualified majority, strong opposition to the Commission's proposal emerges and the Parliament has no say in the outcome. The amendments proposed are as follows: The European Parliament and the Council must, as co-legislators, have an effective means of supervising the exercise of executive powers with a genuine normative scope which substantially change the existing legal situation. To this end, the regulatory procedure must be applied to general measures intended to implement essential aspects or adapt certain other aspects of the basic instruments adopted under the procedure of Article 251 of the Treaty. In these cases, the regulatory procedure must allow the Commission to assume full responsibility for adopting executive measures, whilst enabling the European Parliament and the Council to oversee the executive role. This means that, in the event of a disagreement between the Commission and the legislature, the Commission must be able, depending on the case, to either present a proposal under Article 251 of the Treaty or adopt its draft of initial measures, possibly with amendments. If the deadlines set for the regulatory procedure are not met, provision is made for an urgent procedure to enable the Commission to adopt executive measures immediately without prejudice to subsequent supervision by the European Parliament and the Council. Executive powers in respect of the basic instruments in question which have a bearing only on procedural arrangements or individual decisions need not be subject to specific arrangements for supervision by the legislature, since they must comply with the relevant guidelines and principles in the basic instrument. This does not, however, mean that it is not useful for the Commission to consult committees made up of Member States' representatives who are experts on the matters in question. The advisory procedure should therefore be the standard procedure for executive measures such as those implementing financial support programmes. The management procedure is no longer applicable for implementing instruments adopted by the codecision procedure. Given the limited scope of the current exercise, there is no need to review the arrangements for exercising the powers conferred on the Commission in basic instruments other than those adopted by the procedure under Article 251 of the Treaty. These arrangements are therefore not affected by this Decision.

