

Implementing powers conferred on the Commission, Comitology. Interinstitutional statement

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PURPOSE : to conclude a new Interinstitutional Agreement concerning the “regulatory procedure with scrutiny”.

CONTENT : the European Parliament, the Council and the Commission welcome the forthcoming adoption of the Council Decision amending the Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. The inclusion in the 1999 Decision of a new procedure, known as the "regulatory procedure with scrutiny", will enable the legislator to scrutinise the adoption of "quasilegislative" measures implementing an instrument adopted by codecision.

In a joint declaration, the three institutions emphasise that, in the context of the existing Treaty, this Decision provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the codecision procedure. Without prejudice to the rights of the legislative authorities, the European Parliament and the Council recognise that the principles of good legislation require that implementing powers be conferred on the Commission without time-limit. However, **where an adaptation is necessary within a specified period**, the European Parliament, the Council and the Commission consider that a clause requesting the Commission to submit a proposal to revise or abrogate the provisions concerning the delegation of implementing powers **could strengthen the scrutiny exercised by the legislator**.

This new procedure will apply following its entry into force to the quasilegislative measures provided for in instruments adopted in accordance with the codecision procedure, including those provided for in instruments to be adopted in future in the financial services field (Lamfalussy instruments). However, for it to be applicable to instruments adopted by codecision which are already in force, those instruments must be adjusted in accordance with the applicable procedures, so as to replace the regulatory procedure laid down in Article 5 of Decision 1999/468/EC by the regulatory procedure with scrutiny, wherever there are measures which fall within its scope.

The European Parliament, the Council and the Commission consider that the following instruments should be adjusted as a matter of urgency:

- § Regulation of the European Parliament and of the Council on nutrition and health claims made on foods;
- § Directive of the European Parliament and of the Council re-casting Council Directive 93/6/EEC of 15 March 1993 on the capital adequacy of investment firms and credit institutions;
- § Directive of the European Parliament and of the Council re-casting Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions;

- § Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC;
- § Regulation 562/2006/EC of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code);
- § Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;
- § Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of eco-design requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council;
- § Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees;
- § Regulation 396/2005/EC of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC;
- § Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC;
- § Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;
- § Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC;
- § Regulation 1829/2003/EC of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed;
- § Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision;
- § Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse);
- § Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE);

- § Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment;
- § Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council;
- § Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;
- § Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002 amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) with a view to regulating management companies and simplified prospectuses;
- § Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use;
- § Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC;
- § Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;
- § Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles;
- § Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market.

To this end, the Commission has indicated that it will shortly submit proposals to the European Parliament and the Council for the amendment of the instruments referred to above, so as to introduce the regulatory procedure with scrutiny and consequently repeal any provisions of these instruments that provide for a time-limit on the delegation of implementing powers to the Commission.

The European Parliament and the Council will ensure that the proposals are adopted as rapidly as possible.