Basic information

2009/2195(REG) REG - Parliament's Rules of Procedure	Procedure completed
EP Rules of Procedure, Rules 87a and 88: delegated acts and implementing measures **Subject** 8.40.01.08 Business of Parliament, procedure, sittings, rules of procedure 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AFCO Constitutional Affairs	CASINI Carlo (PPE)	04/11/2009
	Shadow rapporteur MOREIRA Vital (S&D) DUFF Andrew (ALDE) HÄFNER Gerald (Verts/ALE) FOX Ashley (ECR) SCHOLZ Helmut (GUE/NGL) MESSERSCHMIDT Morten (EFD)	

European Commission

Commission DG	Commissioner
Secretariat-General	ŠEFČOVIČ Maroš

Key events

Date	Event	Reference	Summary
07/04/2011	Committee referral announced in Parliament		
20/03/2012	Vote in committee		
27/03/2012	Committee report tabled for plenary	A7-0072/2012	Summary
10/05/2012	Decision by Parliament	T7-0199/2012	Summary
10/05/2012	Results of vote in Parliament		
10/05/2012	End of procedure in Parliament		

Technical information	
Procedure reference	2009/2195(REG)
Procedure type	REG - Parliament's Rules of Procedure
Procedure subtype	Rules
Legal basis	Rules of Procedure EP 243-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/7/01560

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE464.999	13/10/2011	
Amendments tabled in committee		PE480.765	06/02/2012	
Amendments tabled in committee		PE485.835	08/03/2012	
Committee report tabled for plenary, single reading		A7-0072/2012	27/03/2012	Summary
Text adopted by Parliament, single reading		T7-0199/2012	10/05/2012	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

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

2009/2195(REG) - 27/03/2012 - Committee report tabled for plenary, single reading

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.

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

2009/2195(REG) - 10/05/2012 - Text adopted by Parliament, single reading

The European Parliament decided to amend 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.

In the light of these changes, 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;
- the juncture at which the period during which Parliament may raise an objection to the proposed delegated act starts to run;
- 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.

If the committee responsible considers it appropriate to do so – after consulting any committees concerned, the committee responsible may table a reasoned motion for a resolution. That motion for a resolution shall state the reasons for Parliament's objections and may incorporate a request to the Commission to submit a new delegated act which takes account of Parliament's recommendations.

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. Members have decided that 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 new Rule 88a shall reflect 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.