Basic information

2010/0051(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Mechanisms for control by Member States of the Commission's exercise of implementing powers, 'Comitology Regulation' Repealing Decision 1999/468/EC 1998/0219(CNS) See also 2013/0063(COD) **Subject** 8.40.03 European Commission 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.40.11 Relations with Member State governments and national parliaments 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	SZÁJER József (PPE)	23/03/2010

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	ALBERTINI Gabriele (PPE)	14/04/2010
DEVE Development	MITCHELL Gay (PPE)	04/05/2010
INTA International Trade	MOREIRA Vital (S&D)	28/04/2010
BUDG Budgets	The committee decided not to give an opinion.	08/04/2010
CONT Budgetary Control	The committee decided not to give an opinion.	
ECON Economic and Monetary Affairs	SÁNCHEZ PRESEDO Antolín (S&D)	27/04/2010
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	LEINEN Jo (S&D)	07/04/2010

ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	GRECH Louis (S&D)	07/04/2010
TRAN Transport and Tourism	EL KHADRAOUI Saïd (S&D)	27/04/2010
REGI Regional Development	HÜBNER Danuta Maria (PPE)	27/04/2010
AGRI Agriculture and Rural Development	DE CASTRO Paolo (S&D)	17/03/2010
PECH Fisheries	KUHN Werner (PPE)	07/04/2010
CULT Culture and Education	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	LÓPEZ AGUILAR Juan Fernando (S&D)	10/05/2010
AFCO Constitutional Affairs	FOX Ashley (ECR)	03/05/2010
FEMM Women's Rights and Gender Equality	The committee decided not to give an opinion.	
PETI Petitions	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Education, Youth, Culture and Sport	3066	2011-02-14

European Commission

Commission DG	Commissioner
Secretariat-General	BARROSO José Manuel

Key events

Date	Event	Reference	Summary

09/03/2010	Legislative proposal published	COM(2010)0083	Summary
24/03/2010	Committee referral announced in Parliament, 1st reading		
01/12/2010	Vote in committee, 1st reading		Summary
06/12/2010	Committee report tabled for plenary, 1st reading	A7-0355/2010	
16/12/2010	Decision by Parliament, 1st reading	T7-0488/2010	Summary
16/12/2010	Results of vote in Parliament		
14/02/2011	Act adopted by Council after Parliament's 1st reading		
16/02/2011	Final act signed		
16/02/2011	End of procedure in Parliament		
28/02/2011	Final act published in Official Journal		

Technical information

Procedure reference	2010/0051(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Decision 1999/468/EC 1998/0219(CNS) See also 2013/0063(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 291-p3
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/02475

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	AGRI	PE439.944	04/05/2010	
Committee draft report		PE441.207	20/05/2010	
Committee opinion	INTA	PE441.017	01/06/2010	
Committee opinion	TRAN	PE441.237	01/06/2010	
Committee opinion	ENVI	PE440.146	02/06/2010	
Committee opinion	IMCO	PE441.007	03/06/2010	
Committee opinion	DEVE	PE441.193	03/06/2010	
Amendments tabled in committee		PE442.936	08/06/2010	

Committee opinion	PECH	PE440.171	15/06/2010	
Committee opinion	AFCO	PE441.294	15/06/2010	
Committee opinion	ECON	PE441.370	15/06/2010	
Committee opinion	AFET	PE441.196	23/06/2010	
Committee opinion	REGI	PE441.308	23/06/2010	
Committee opinion	LIBE	PE443.054	24/06/2010	
Amendments tabled in committee		PE452.813	26/11/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0355/2010	06/12/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0488/2010	16/12/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00064/2010/LEX	16/02/2011	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0083	09/03/2010	Summary
Commission response to text adopted in plenary	SP(2011)1477	23/02/2011	
Follow-up document	COM(2012)0685	23/11/2012	Summary
Follow-up document	SWD(2012)0394	23/11/2012	
Commission document (COM)	COM(2015)0418	03/09/2015	
Follow-up document	SWD(2015)0165	03/09/2015	
Follow-up document	COM(2016)0092	26/02/2016	Summary
Follow-up document	COM(2019)0638	16/12/2019	Summary
Follow-up document	SWD(2019)0441	16/12/2019	
Follow-up document	COM(2021)0069	19/02/2021	
Follow-up document	SWD(2021)0021	19/02/2021	
Follow-up document	COM(2021)0544	09/09/2021	

Follow-up document	SWD(2021)0240	09/09/2021	
Follow-up document	COM(2022)0443	09/09/2022	
Follow-up document	SWD(2022)0279	09/09/2022	
Follow-up document	COM(2023)0664	26/10/2023	
Follow-up document	SWD(2023)0340	26/10/2023	
Follow-up document	COM(2024)0465	22/10/2024	
Follow-up document	SWD(2024)0235	22/10/2024	
Follow-up document	COM(2025)0642	27/10/2025	
Follow-up document	SWD(2025)0334	27/10/2025	
Follow-up document	COM(2026)0469	10/09/2026	
Follow-up document	SWD(2026)0276	10/09/2026	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_SENATE	COM(2010)0083	27/05/2010	
Contribution	IT_SENATE	COM(2010)0083	26/11/2010	
Contribution	PT_PARLIAMENT	COM(2010)0083	03/12/2010	
Contribution	IT_CHAMBER	COM(2023)0664	26/07/2024	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2011/0182
OJ L 055 28.02.2011, p. 0013

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

2010/0051(COD) - 16/12/2019 - Follow-up document

In accordance with Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (the ‘Comitology Regulation’), the Commission hereby presents the annual report on the working of committees for 2018.

General development

All comitology procedures provided for in the ‘old’ Comitology Decision, with the exception of the regulatory procedure with scrutiny, were automatically adapted to the new comitology procedures provided for in the Comitology Regulation. In 2018, the comitology committees were therefore operating under the procedures set out in the Comitology Regulation, i.e. advisory (Article 4) and examination (Article 5), as well as under the regulatory procedure with scrutiny set out in Article 5a of the Comitology Decision.

In particular, the report mentions:

- the adoption by the Commission, following the Interinstitutional Agreement on better law-making of 13 April 2016, of a proposal on the alignment of the basic acts providing for the regulatory procedure with scrutiny to delegated and implementing acts. It also adopted a second proposal, dealing specifically with the alignment of basic acts in the field of justice. The legislator agreed to the alignment of 64 of the basic acts concerned, while negotiations on the remaining acts and on the acts in the area of justice will continue;

- the adoption by the Commission on 26 February 2016 of a report on the implementation of Regulation (EU) 182/2011. Subsequently, the Commission on 14 February 2017 adopted a proposal for a Regulation of the European Parliament and of the Council amending the Comitology Regulation. This proposal puts forward a number of targeted changes to the functioning of the appeal committee to address no opinion situations in sensitive areas. This file, however, is currently blocked in interinstitutional negotiations;

- the conclusion of the negotiations between the three institutions on non-binding criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union, so the delineation between delegated and implementing acts. The final text of the delineation criteria has been published in the Official Journal on 3 July 2019;

- the adoption of the communication ‘Better regulation for better results’ of May 2015, in which the Commission committed that draft texts for delegated acts and drafts for important implementing acts will be made public for a four weeks feedback period, allowing stakeholders to submit comments. In 2018, 165 such draft acts were published for public feedback on the Commission’s ‘Have your say’ website;

- the judgment of 13 December 2018 in Joined Cases T-339/16, T-352/16 and T-391/16 in which the General Court concluded, first, that the limits applied to vehicle emissions laid down in an annex to the basic act did indeed constitute an essential element of that instrument and, second, that there was no provision expressly empowering the Commission to amend them.

Overview of activities

The report presents the number of active comitology committees by sector of activity for the period from 1 January to 31 December 2018. In 2018, the number of committees was 275 (compared to 267 in 2017).

In 2018, the comitology committees could generally be broken down according to the type of procedure governing their activity: advisory procedure (23 committees), examination procedure (100 committees) and regulatory procedure with scrutiny (21 committees).

This report provides overall figures on the formal opinions delivered by the committees and the subsequent implementing acts/measures adopted by the Commission. The European Parliament and the Council have a right of scrutiny. In 2018, the European Parliament adopted 9 resolutions on the basis of Article 11 of the Comitology Regulation, while the Council has not adopted any such resolution.

The appeal committee met 6 times during 2018, and discussed 12 draft implementing acts (in the areas of health and consumer policy) which were referred by the Commission. The appeal committee delivered no opinion in all 12 cases. The Commission decided to adopt 11 implementing acts following such no opinion in 2018.

Lastly, in 2018, 90 measures were adopted according to the regulatory procedure with scrutiny. The right to oppose was used once, by the European Parliament. In 2017, by comparison, the right to oppose was also used once.

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

2010/0051(COD) - 23/11/2012 - Follow-up document

In accordance with Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (the 'Comitology Regulation'), the Commission presents the annual report on the working of committees for 2011. The report contains an overview of developments in the comitology system in 2011 and a summary of the committees' activities. The Comitology Regulation entered into force on 1 March 2011. It repealed Council Decision 1999/468/EC (the Comitology Decision) and replaced the procedures set out in that Decision by just two procedures (advisory and examination procedures).

Since 1 March 2011, therefore, the comitology committees have been operating under the procedures set out in the Comitology Regulation: advisory (Article 4 of the Comitology Regulation) and examination (Article 5 of the Comitology Regulation), as well as under the regulatory procedure with scrutiny set out in Article 5a of the 'old' Comitology Decision).

The Commission notes that it is important to distinguish between the comitology committees, on the one hand, and other entities, in particular 'expert groups' created by the Commission itself, on the other.

The report focuses exclusively on comitology committees. In 2011, the comitology committees could generally be broken down according to the type of procedure under which they operated (advisory procedure, examination procedure, regulatory procedure with scrutiny). Because certain committees applied multiple procedures, they have been separated from committees operating under a single procedure.

The figures indicate that **around 37% of the committees (99 out of 268) worked exclusively under the examination procedure, while only about 8% of the committees (23 out of 268) worked exclusively under the advisory procedure**. However, **most committees (121 out of 268 or 45%) operated under several procedures**. The breakdown by policy sector shows that use of different types of procedures varies from one policy sector to another.

The number of committees is not the only indicator of activity at comitology level. The number of meetings held, as well as the number of written procedures used in 2011 also reflects the intensity of work in general, at sector level and also in individual committees

Number of opinions and implementing acts/ measures: the report provides overall figures on the formal opinions delivered by the committees and the subsequent implementing acts/measures adopted by the Commission. These figures quantify the tangible 'output' of the committees. The committees delivered a total of 1868 opinions in 2011 (compared with 1904 in 2010). A total of 1788 implementing acts/measures were adopted by the Commission (compared with 1 812 in 2010).

Meetings of the appeal committee: on 29 March 2011, the appeal committee met for the first time in order to adopt its Rules of Procedure in line with the Comitology Regulation. The appeal committee met four more times during 2011, and discussed eight draft implementing acts (in the area of Health and Consumers), which were referred by the Commission. In two cases, the appeal committee delivered a positive opinion, in five cases no opinion, and in one case a negative opinion. In the five cases in which no opinion was delivered, the Commission decided to adopt the implementing acts.

Use of the Regulatory Procedure with Scrutiny: this procedure has not been affected by the comitology reform of 2011. It procedure can no longer be used in new legislation, but it still appears in several existing basic acts and will continue to apply under those acts until they are formally amended.

The number of implementing measures adopted according to RPS in 2011 stands at 163. In 2011, the right of veto was used in two cases:

- in May 2011 the Council opposed the adoption of a draft Commission Directive amending Directive 98/79/EC of the European Parliament and of the Council on in vitro diagnostic medical devices. The draft measure was consequently not adopted. A revised measure was adopted by the Commission on 20 December 2011;
- in October 2011 the Council opposed the adoption of a draft Commission Directive amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products. The draft measure was consequently not adopted. A revised measure was adopted by the Commission on 22 March 2012.

In 2010, by comparison, the European Parliament made use of the right of veto on draft measures in one case and the Council in two cases.

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

2010/0051(COD) - 26/02/2016 - Follow-up document

The Commission presents a report on the implementation of Regulation No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (the 'Comitology Regulation').

The adoption of the Regulation, which entered into force on 1 March 2011, was the result of amendments made in the Treaty of Lisbon with regard to the framework for the conferral of powers upon the Commission by introducing a distinction between delegated and implementing powers.

Functioning of Regulation (EU) 182/2011: the report focuses on the elements newly introduced by Regulation (EU) 182/2011 compared to the Council Decision 1999/468/EC, as amended by Council Decision 2006/512/EC, which provided the framework applicable before Regulation (EU) 182/2011.

Overall the figures indicate that the Regulation has **allowed a seamless continuation of the system.** When comparing the figures since 2011 to the years before the application of Regulation (EU) 182/2011, **both the number of committees and their activity has remained stable**. The number of committees was at 266 in 2009 and at 287 in 2014. Similarly the number of measures adopted was at 1808 in 2009 and at 1728 in 2014.

Building on experience, the Regulation **introduced a number of provisions linked to the working of the committees** that reflected common practice, but were not spelled out in the legislation before. This includes provisions on:

- the use of the written procedure;
- an explicit requirement for the chair to find solutions that command the widest possible support within the committee ;
- the possibility of amending the draft acts prior to the vote to take account of the discussions of the committee.

These common provisions continued to be effective and useful in ensuring a proper functioning of the committees. The **written procedure** is widely used and it is an efficient tool. The work of the committees **remains consensual**: the overwhelming percentage of opinions (well over 90%) are positive opinions, the majority of these adopted by unanimous vote or by consensus of the committee members, and there are hardly any negative and relatively few negative opinions.

Main changes:

- ***the reduction of the number of committee procedure*** : the old regulatory and management procedures were replaced by the examination procedure, while the advisory procedure was maintained. The report states that the reduction of the number of procedures has not raised particular issues;
- ***the creation of the appeal committee***: the Regulation (EU) created a second layer to address issues on which the committee could not find agreement. So far, the appeal committee has mainly been convened in relation to **one policy area**, namely health and consumer protection, and more specifically in relation to genetically modified food and feed and plant protection products. Overall the referral to the appeal committee has taken place with a comparable frequency to the earlier referrals to the Council, which are no longer permitted under the new institutional framework;
- ***examination procedure***: the Regulation introduced more flexibility for the Commission in cases where there is no qualified majority in favour or against the draft (referred to as a no opinion) in the committee in the examination procedure. The report notes that even though it has been used so far in few cases, **the new flexibility allowed the Commission to reassess the draft measure** after the voting results and the discussion in the committee had shown that it did not enjoy the widest possible support within the committee;
- ***criteria for the choice between the procedures***: the advisory procedure applies in principle to all cases to which the examination procedure does not apply. Overall, the choice of procedure appears to have been uncontroversial. **The examination procedure is clearly the procedure applicable in the majority of cases,** and only about 10% of the opinions are adopted by advisory procedure;
- ***the right of scrutiny for the European Parliament and the Council regarding basic acts adopted under the ordinary legislative procedure***: right has not been used by Council and used in only 4 cases by the European Parliament by the end of January 2016. In one of these, the European Parliament adopted a resolution after the implementing act was adopted criticising the short timeline between the transmission to the committee and the adoption.

The report concludes that Regulation (EU) 182/2011 has **allowed, over the last five years, the effective use of the Commission's implementing powers under the control of Member States**. The existing framework allows for an efficient and constructive cooperation between the Commission and Member States. At this point, the Commission has not identified issues that would require or warrant a legislative proposal to amend Regulation (EU) 182/2011 at this point of time.

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

2010/0051(COD) - 16/02/2011 - Final act

PURPOSE: to adopt the new "comitology" rules defining how Member States control the Commission's exercise of its implementing powers.

LEGISLATIVE ACT: Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers.

CONTENT: following first reading agreement with the European Parliament, the Council adopted a Regulation establishing new rules on how Member States control the Commission's exercise of its implementing powers.

According to **Article 291 of the Treaty on the Functioning of the European Union (TFEU),** EU legislation ("basic acts") can confer on the Commission the power to adopt implementing acts where uniform conditions for implementing legally binding EU acts by Member States are needed.

The new Regulation puts this into practice and **replaces Council Decision 1999/468/EC** laying down the procedures for the exercise of implementing powers conferred on the Commission (“Comitology Decision”) with regard to the consultation, management and regulatory procedures.

The Regulation establishes **two procedures** for controlling the Commission's exercise of implementing powers: an advisory and an examination procedure. Both involve committees composed of representatives of Member States and chaired by the Commission. **The Commission must ensure the widest possible support** within these committees.

The examination procedure: this applies in particular to measures of general scope (such as technical details related to the online collection system of statements of support for the European citizens' initiative) and specific measures with a potentially important impact, for instance in the field of agriculture, fisheries, environment, health, trade and taxation. It aims to ensure that Commission implementing acts are supported by a qualified majority of the committee. If the committee opposes the draft measures by qualified majority, the Commission must not adopt the draft implementing act; where an implementing act is deemed to be necessary, the Commission may either submit an amended version of the draft implementing act to the same committee within two months, or submit the draft implementing act within one month to the appeal committee for further deliberation. If the

committee does not deliver an opinion, the Commission may adopt the draft act under certain conditions. Within this procedure, specific rules apply for trade policy.

The advisory procedure: this applies as a general rule to the adoption of implementing acts in other fields (such as individual measures in the field of culture). The Commission must take the utmost account of the committee's opinions, which are adopted by a simple majority.

European Parliament's and Council's right of scrutiny : the new Regulation stipulates that where the basic act has been adopted under the co-decision procedure, the European Parliament or the Council may at any time inform the Commission that it considers the proposed implementing act to exceed the powers conferred on the Commission. In such a case, the Commission must review the draft act and decide whether to maintain, amend or withdraw it.

Transitional provisions: as article 290 applies since the entry into force of the Lisbon Treaty on 1 December 2009, the European Parliament and the Council may no longer provide for new "regulatory procedures with scrutiny" in new basic acts. For existing legislation, however, the "regulatory procedure with scrutiny" maintained.

Review: by 1 March 2016, 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 : 01/03/2011.

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

2010/0051(COD) - 16/12/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 567 votes to 4, with 18 abstentions, a legislative resolution 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 adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission proposal as follows:

Selection of procedures: criteria should be laid down to determine the procedure to be used for the adoption of implementing acts. In order to achieve greater consistency, the procedural requirements should be proportionate to the nature and impact of the implementing acts to be adopted. Provided that the basic act confers implementing powers on the Commission relating to programmes with substantial budgetary implications or directed to third countries, the examination procedure should apply. When considering the adoption of other draft implementing acts concerning particularly sensitive sectors, notably taxation, consumers’ health, food safety and protection of the environment, the Commission, in order to find a balanced solution, will as far as possible act in such a way as to avoid going against any predominant position which might emerge within the appeal committee against the appropriateness of an implementing act.

Referral to the appeal committee: where appropriate, the control mechanism should include referral to an appeal committee which should meet at the appropriate level. The appeal committee shall deliver its opinion by the majority provided for in the Regulation. 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.

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. In the absence of a positive opinion voted by the majority provided, the Commission shall not adopt the draft measures.

Role of the Chair of the relevant committee: he should endeavour to find solutions which command the widest possible support within the committee or the appeal committee and should explain the manner in which the discussions and suggestions for amendments have been taken into account. 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.

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.

The European Parliament and the Council should be regularly informed and without delay of the work carried out by the committees.

Register: 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.

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 Regulation shall enter into force on 1 March 2011.

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

2010/0051(COD) - 09/03/2010 - Legislative proposal

PURPOSE: to establish the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the Treaty of Lisbon substantially modifies the framework for implementing powers that are conferred upon the Commission by the legislator. Contrary to the provisions of the Treaty establishing the European Community ("the EC Treaty"), the new Treaty makes a clear distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act (delegated acts), on the one hand, and the powers conferred on the Commission to adopt implementing acts, on the other hand. They are subject to entirely different legal frameworks:

- the provisions of the new Treaty on **delegated acts**, which are set out in Article 290 of the Treaty on the Functioning of the European Union ("the Treaty"), provide for the legislator to control the exercise of the Commission's powers by means of a right of revocation and/or a right of objection. These provisions are sufficient in themselves and do not require any legally binding framework to make them operational.
- the provisions of the new Treaty on **implementing acts**, which are set out in Article 291, do not provide any role for the European Parliament and the Council to control the Commission's exercise of implementing powers. Such control can only be exercised by the Member States. A legal framework is required to establish the mechanisms of such control.

The provisions of the new Treaty also put the co-legislators on an equal footing in relation to the conferral of delegated and implementing powers. Under the EC Treaty it was the Council that could confer implementing powers on the Commission. The Council could also reserve implementing powers to itself in specific cases. Under the new Treaty provisions it is a direct obligation deriving from the Treaty that acts must confer implementing powers on the Commission where this is needed in view of ensuring uniform implementation of these acts. Those acts can also, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, confer implementing powers on the Council instead of the Commission. This does not imply, however, that the Council has any role in controlling the exercise of implementing powers when these are conferred on the Commission. The new Treaty clearly entails that it is the Member States, and they alone, that control the implementation by the Commission where such control is required by a legally binding Union act.

As regards the implementation of Article 290 of the Treaty, the Commission has set out its views on the scope of delegated acts in a Communication.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 291(3) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: this proposal is guided by the new provisions of the Treaty and the new institutional context described above. However, the proposal also draws on Council Decision 1999/468/EC ("the Comitology Decision") and experience gained in implementing that Decision, whilst simplifying its provisions taking into account in particular the following general principles: (i) it is the Member States that are responsible for controlling the Commission's exercise of implementing powers; and (ii) procedural requirements should be proportionate to the nature of implementing acts.

The key elements of the proposal that include similarities and innovations in comparison with the ‘Comitology’ Decision are as follows:

- the proposal maintains the Committee structure provided for in the Comitology Decision (Article 3), but rationalises it ; there are only two procedures: the advisory procedure, which mirrors the existing advisory procedure, and a new examination procedure, which will replace - the existing management and regulatory procedures (Articles 4 and 5);

the advisory procedure is the general rule and can be applied to all policy domains and for all types of binding implementing measures (Article 2(3));

- the criteria for the choice of the examination procedure mirror those provided for in the Comitology Decision. Nevertheless, these criteria are binding in the sense that only when the criteria are met can the examination procedure in question be used (Article 2(2));

- the examination procedure (Article 5): the main provisions are as follows:

- where the Committee delivers a negative opinion on the draft measures, the Commission may not adopt them. The Commission may re-submit the draft to the committee for a second deliberation, or table an amended draft. In very exceptional circumstances, the Commission would be able to adopt the draft measures despite a negative opinion but in such a case the committee would have the last word within a time-period which will not exceed one month;
- where no opinion is reached, the Commission may ultimately decide whether to adopt the measures or not, taking into account inter alia the positions expressed within the committee;
- in the case of a positive opinion of the committee, the Commission will adopt the measures unless exceptional circumstances or new elements justify them not being adopted.

- there are specific procedures for measures to apply immediately on imperative grounds of urgency and where this is provided for in a basic act (Article 6);

- the proposal maintains provisions relating to the rules of procedures of committees (Article 7) and regarding public access to information on committee proceedings (Article 8(3));

- building on experience gained with the implementation of the Comitology Decision, the proposal also includes a number of important provisions that are common practice but were not covered by the Decision. These include the provisions for the use of written procedures (Article 3 (5)) in order to obtain the committee's opinion and the possibility for amending draft measures in order to take into account discussions in the committee prior to it delivering its formal opinion (Article 3 (4));

- both legislators should be properly and continuously informed of committee proceedings through the continued use of the existing Comitology Register, which would be adapted to the new procedures;

- lastly, for reasons of clarity, consistency and efficiency, the proposal provides for an automatic alignment of the existing acquis to the new procedures (Article 10).

The adaptation to the new system will not affect pending procedures in which an opinion has already been delivered.

BUDGETARY IMPLICATION: The proposal has no implications for the Community budget.