Basic information

2012/2323(INI) INI - Own-initiative procedure	Procedure completed
Follow-up on the delegation of legislative powers and the control by Member States of the Commission's exercise of implementing powers **Subject** 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.50.01 Implementation of EU law	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	SZÁJER József (PPE)	12/12/2012
	Shadow rapporteur RAPKAY Bernhard (S&D) THEIN Alexandra (ALDE) LICHTENBERGER Eva (Verts/ALE) KARIM Sajjad (ECR) MAŠTÁLKA Jiří (GUE/NGL) SPERONI Francesco Enrico (EFD) STOYANOV Dimitar (NI)	

Committee for opinion	Rapporteur for opinion	Appointed
DEVE Development	MITCHELL Gay (PPE)	08/05/2013
ECON Economic and Monetary Affairs	BOWLES Sharon (ALDE)	05/02/2013
EMPL Employment and Social Affairs	BERÈS Pervenche (S&D)	13/03/2013
ENVI Environment, Public Health and Food Safety	GROOTE Matthias (S&D)	18/12/2012
ITRE Industry, Research and Energy	SARTORI Amalia (PPE)	17/12/2012

	TRAN Transport and Tourism	KUHN Werner (PPE) EL KHADRAOUI Saïd (S&D)	17/12/2012 17/12/2012
	AGRI Agriculture and Rural Development	DE CASTRO Paolo (S&D)	19/03/2013
	PECH Fisheries	SÁNCHEZ PRESEDO Antolín (S&D)	17/01/2013
	LIBE Civil Liberties, Justice and Home Affairs	BEŇOVÁ Monika (S&D)	31/01/2013
	AFCO Constitutional Affairs	The committee decided not to give an opinion.	

European Commission	Commission DG	Commissioner
	Secretariat-General	ŠEFČOVIČ Maroš

Key events

Date	Event	Reference	Summary
15/01/2013	Committee referral announced in Parliament		
26/11/2013	Vote in committee		
04/12/2013	Committee report tabled for plenary	A7-0435/2013	Summary
24/02/2014	Debate in Parliament		
25/02/2014	Decision by Parliament	T7-0127/2014	Summary
25/02/2014	Results of vote in Parliament		
25/02/2014	End of procedure in Parliament		

Technical information

Procedure reference	2012/2323(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/11460

Documentation gateway				
European Parliament				
Document type	**Committee**	**Reference**	**Date**	**Summary**
Committee opinion	ENVI	PE507.927	30/05/2013	
Committee draft report		PE510.803	22/07/2013	
Committee opinion	TRAN	PE513.025	06/09/2013	
Committee opinion	PECH	PE510.583	10/09/2013	
Committee opinion	DEVE	PE513.388	23/09/2013	
Committee opinion	ITRE	PE510.865	24/09/2013	
Committee opinion	EMPL	PE513.045	26/09/2013	
Amendments tabled in committee		PE519.797	01/10/2013	
Committee opinion	ECON	PE514.604	11/10/2013	
Committee opinion	LIBE	PE506.206	25/11/2013	
Committee opinion	AGRI	PE508.273	25/11/2013	
Committee report tabled for plenary, single reading		A7-0435/2013	04/12/2013	Summary
Text adopted by Parliament, single reading		T7-0127/2014	25/02/2014	Summary

Follow-up on the delegation of legislative powers and the control by Member States of the Commission's exercise of implementing powers

2012/2323(INI) - 04/12/2013 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted an own-initiative report by József SZÁJER (EPP, HU) on follow-up on the delegation of legislative powers and control by Member States of the Commission's exercise of implementing powers.

The Lisbon Treaty introduced the possibility for Parliament and the Council to delegate part of its own powers to the Commission in a legislative act. The adoption of provisions requiring political decisions that fall within the responsibility of the legislator cannot be delegated. The delegated power can only consist in supplementing or amending parts of a legislative act considered non-essential by the legislator.

The **delineation of delegated and implementing acts**, and the correct and most appropriate choice of provisions to be included in the basic act, constitute issues which **become an integral part of most negotiations** on legislative proposals.

That is why the report contained a number of practical proposals to **safeguard Parliament's prerogatives** in order to ensure a sufficient level of democratic legitimacy for the delegated acts, taking into account the different positions taken by Parliament, the 'horizontal approach' endorsed by the Conference of Presidents and the regular screening exercises conducted by Parliament's services.

Members called on the Commission and the Council to enter into negotiation with the Parliament with a view to **reaching an agreement on a set of criteria for the application of articles 290 and 291 TFEU** listed in the report. These negotiations could take place within the framework of a revision of the interinstitutional agreement on Better Law Making, including these criteria:

The report made the following recommendations:

- the Commission must provide an **explicit justification** as to why it is proposing a delegated or implementing act in a particular legislative proposal and why it considers its regulatory content to be non-essential;
- to strengthen the position of its rapporteurs in legislative negotiations, greater recourse should be had to the possibility of requesting **an opinion from the Committee on Legal Affairs** under Rule 37a of the Rules of Procedure;

- all cases previously dealt with under **regulatory procedure with scrutiny (RPS)** should now be aligned to Article 290 TFEU, as RPS measures are also measures of general scope designed to amend non-essential elements of a basic act; this procedure is expected to be finalised before the end of the current legislature;
- despite the fact that it can be a good solution in certain cases, Members did not support systematically keeping all policy elements in the basic act as this could, in due course, prevent recourse to Article 290 TFEU as a valuable means of rationalisation of the legislative process;
- in those cases where it has been decided to use **implementing acts**, the Parliament's negotiating team should carefully assess what kind of control by Member States is needed and whether the advisory or the examination procedure should be used;
- the Commission must not **misuse delegated acts** in order to reopen discussions on matters agreed at political level in trilogues; the power to adopt delegated acts should preferably be conferred on the Commission only for **a limited period of time**;
- to enable the committees to monitor the use of delegated acts and implementing acts, the Commission should improve its **transmission of documents related to delegated acts** in order to ensure at least the same level of information and transparency as for the existing register of implementing acts and to guarantee a simultaneous flow of information to Parliament and to the Council as the legislator;
- Parliament should be regularly and in a timely manner **associated with the preparatory phase of delegated acts**; it should be informed of the planned timetable, the scheduled meetings of expert groups and the content of envisaged delegated acts;
- in the context of the preparation of delegated acts, the Commission must fully respect the Framework Agreement on relations between the European Parliament and the European Commission, inter alia by simplifying the **procedure for inviting Parliament's experts** to meetings with national experts, if so requested by the responsible Parliamentary committee;
- the time between the transmission of final draft implementing acts and their adoption by the Commission is often **too short** to allow for adequate oversight by Parliament; the Commission, therefore, must fully respect the Parliament's right to scrutinise final draft implementing acts within **a period of one month**.

Members recommended that, in each committee, permanent **rapporteurs be appointed for delegated and implementing acts**, guaranteeing coherence within the committee concerned and with other committees.

Finally, the report commented on specific subject-matters:

- ***Agriculture and fisheries***: the report deplored the fact that the alignment dossiers on essential agricultural and fisheries legislation were blocked by the Council after the failure of negotiations in informal trilogues and Parliament's first reading.
- ***Development cooperation***: since implementing acts are often based on prior consultations with third parties, Members stressed that earlier notification of and dialogue with Parliament would allow a more effective use of Parliament’s power of scrutiny.
- ***Economic and monetary affairs***: given the technical expertise and specialist skills of the ESAs, delegated acts should take the form of RTS rather than ordinary delegated acts wherever possible. For certain legislative acts, Members considered that the period for scrutinising may be extended by a further month, given their volume and complexity.

Follow-up on the delegation of legislative powers and the control by Member States of the Commission's exercise of implementing powers

2012/2323(INI) - 25/02/2014 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on follow-up on the delegation of legislative powers and control by Member States of the Commission's exercise of implementing powers.

The Lisbon Treaty introduced the possibility for Parliament and the Council to delegate part of its own powers to the Commission in a legislative act. The delegated power can only consist in supplementing or amending parts of a legislative act considered non-essential by the legislator.

The delineation of delegated and implementing acts, and the correct and most appropriate choice of provisions to be included in the basic act, constitute issues which become an integral part of most negotiations on legislative proposals.

Accordingly, the resolution contained a number of practical proposals to **safeguard Parliament's prerogatives** in order to ensure a sufficient level of democratic legitimacy for the delegated acts.

Application criteria: Parliament considers that certain criteria should be followed by Parliament in applying Articles 290 and 291 TFEU. In general, delegated acts should be used where the basic act leaves a considerable margin of discretion to the Commission to supplement the legislative framework laid down in the basic act.

The Commission may only amend legislative acts by means of delegated acts. This includes amendment of annexes, as annexes are an integral part of the legislative act. **Annexes are not to be added to or deleted with the aim of triggering or avoiding the use of delegated acts**.

The following should be adopted through delegated acts:

- measures leading to a choice of priorities, objectives or expected results, if the legislator decides not to include them in the legislative act itself;
- measures designed to lay down (further) conditions, criteria or requirements to be met;
- additional binding rules of general scope that affect in substance the rights or obligations laid down in the basic act, further defining the Union policy;
- measure that determines the type of information to be provided under the basic act (i.e. the exact content of the information).

The following should be carried out by means of **an implementing act:**

- measures determining arrangements for the provision of information (i.e. the format);
- elements that do not reflect any further political or policy orientation

An empowerment to determine methods (i.e. ways of doing something in particular in a regular and systematic way) or methodology (i.e. rules to determine the methods) can provide for **delegated or implementing acts depending on the content** and the context.

Interinstitutional agreement: Members called on the Commission and the Council to enter into negotiation with the Parliament **with a view to reaching an agreement on a set of criteria for the application of articles 290 and 291 TFEU listed in the resolution**. These negotiations could take place within the framework of a revision of the interinstitutional agreement on Better Law Making, including the criteria set out.

Parliament made the following recommendations:

- the Commission must provide **an explicit justification** as to why it is proposing a delegated or implementing act in a particular legislative proposal and why it considers its regulatory content to be non-essential;
- to strengthen the position of its rapporteurs in legislative negotiations, greater recourse should be had to the possibility of requesting an **opinion from the Committee on Legal Affairs** under Rule 37a of the Rules of Procedure;
- all cases previously dealt with under **regulatory procedure with scrutiny** (RPS) should now be aligned to Article 290 TFEU; this procedure is expected to be finalised before the end of the current legislature;
- in those cases where it has been decided to use **implementing acts**, the Parliament's negotiating team should carefully assess what kind of control by Member States is needed and whether the advisory or the examination procedure should be used;
- the Commission **must not misuse delegated acts** in order to reopen discussions on matters agreed at political level in trilogues; the power to adopt delegated acts should preferably be conferred on the Commission only **for a limited period of time**;
- to enable the committees to monitor the use of delegated acts and implementing acts, the Commission should improve its **transmission of documents related to delegated acts ;**
- Parliament should be regularly and in a timely manner associated with the **preparatory phase of delegated acts**; the procedure for inviting Parliament's experts to meetings with national experts, if so requested by the responsible Parliamentary committee should be simplified;
- the time between the transmission of final draft implementing acts and their adoption by the Commission is often **too short** to allow for adequate oversight by Parliament; the Commission, therefore, must fully respect the Parliament's right to scrutinise final draft implementing acts within a **period of one month**.

Members recommended that, in each committee, permanent rapporteurs be appointed for delegated and implementing acts, guaranteeing coherence within the committee concerned and with other committees.

Lastly, Parliament commented on specific subject-matters:

- **Agriculture and fisheries**: Parliament deplored the fact that the alignment dossiers on essential agricultural and fisheries legislation were blocked by the Council after the failure of negotiations in informal trilogues and Parliament's first reading.
- **Development cooperation**: since implementing acts are often based on prior consultations with third parties, Members stressed that earlier notification of and dialogue with Parliament would allow a more effective use of Parliament’s power of scrutiny.
- **Economic and monetary affairs:** given the technical expertise and specialist skills of the ESAs, delegated acts should take the form of RTS rather thanordinary delegated acts wherever possible. For certain legislative acts, Members considered that the period for scrutinising may be extended by a further month, given their volume and complexity.