

Tuesday 23 September 2008

Alignment of legal acts to the new Comitology Decision

P6_TA(2008)0424

European Parliament resolution of 23 September 2008 with recommendations to the Commission on the alignment of legal acts to the new Comitology Decision (2008/2096(INI))

(2010/C 8 E/05)

The European Parliament,

- having regard to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾, as amended by Council Decision 2006/512/EC ⁽²⁾ (hereinafter together referred to as 'the Comitology Decision'),
 - having regard to the Statement by the European Parliament, the Council and the Commission concerning the Council Decision of 17 July 2006 amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (2006/512/EC) ⁽³⁾,
 - having regard to the Agreement between the European Parliament and the Commission on procedures for implementing Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, as amended by Decision 2006/512/EC ⁽⁴⁾,
 - having regard to Article 192, second paragraph, and Article 202 of the EC Treaty,
 - having regard to Articles 290 and 291 of the Treaty on the Functioning of the European Union,
 - having regard to its decision of 8 May 2008 on the conclusion of an interinstitutional agreement between the European Parliament and the Commission on procedures for implementing Council Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission, as amended by Decision 2006/512/EC ⁽⁵⁾,
 - having regard to Rules 39 and 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A6-0345/2008),
- A. whereas, for the sake of the quality of legislation, it is increasingly necessary to delegate to the Commission the development of the non-essential and more technical aspects of the legislation as well as its prompt adjustment to take account of technological progress and economic change; whereas such delegation of powers must be facilitated by giving the legislator the institutional means to scrutinise the exercise of such powers,
- B. whereas hitherto the Union legislator had no option other than to use Article 202 of the EC Treaty in order to carry out such delegation; whereas recourse to that provision has not been satisfactory since it refers to the Commission's powers of implementation and to the scrutiny procedures to which such powers are subject, those procedures being decided on by the Council by a unanimous vote after mere consultation of Parliament; whereas those scrutiny procedures are based essentially on the action of committees composed of civil servants of the Member States, and Parliament was excluded from all such procedures until the adoption of the Council Decision of 28 June 1999 as amended by Decision 2006/512/EC,

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 200, 22.7.2006, p. 11.

⁽³⁾ OJ C 255, 21.10.2006, p. 1.

⁽⁴⁾ OJ C 143, 10.6.2008, p. 1.

⁽⁵⁾ Texts Adopted, P6_TA(2008)0189.

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- C. whereas Article 2(2) of the Comitology Decision introduces measures where a basic legal instrument adopted by codecision provides for measures of general scope designed to amend non-essential elements of that instrument, *inter alia* by deleting some of those elements or by supplementing the instrument with new non-essential elements; whereas it is up to the Union legislator to define, on a case-by-case basis, the essential elements of each legislative act that can only be amended by means of a legislative procedure,
- D. whereas the Comitology Decision makes what are known as 'quasi-legislative' measures subject to a regulatory procedure with scrutiny under which Parliament is fully associated with the control of such measures and can oppose draft measures proposed by the Commission which exceed the implementing powers provided for in the basic instrument or a draft which is not compatible with the aim or the content of the basic instrument or does not respect the principles of subsidiarity or proportionality,
- E. whereas the new procedure guarantees democratic control of implementing measures when they are quasi-legislative in nature by placing both co-legislators, Parliament and the Council, on an equal footing, and thereby brings to an end one of the most serious aspects of the democratic deficit in the Union; whereas the Comitology Decision enables the most technical aspects of legislation and its adjustment to be delegated to the Commission, thereby ensuring that the legislator concentrates on the essential aspects and on improving the quality of Community law,
- F. whereas the new regulatory procedure with scrutiny is not optional but compulsory when the implementing measures possess the characteristics specified in Article 2(2) of the Comitology Decision,
- G. whereas the current alignment of the *acquis* with the Comitology Decision is still not complete since there remain legal instruments that provide for implementing measures to which the new regulatory procedure with scrutiny should be applied,
- H. whereas not only implementing measures hitherto subject to the regulatory procedure but also some of measures subject to the management or consultation procedures may fall within the ambit of the requirements of Article 2(2) of the Comitology Decision,
- I. whereas the Treaty of Lisbon introduces a hierarchy of norms and creates the concept of a 'delegated act', where 'a legislative act ... delegate[s] to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act'; whereas the Treaty of Lisbon also treats implementing acts in a new way and provides in particular for codecision between Parliament and the Council as the procedure for the adoption of the regulation that will lay down the mechanisms for control by the Member States over implementing acts,
- J. whereas implementation of the corresponding provisions of the Treaty of Lisbon will necessitate an intense and complex process of interinstitutional negotiation, and whereas the present process of alignment should therefore be completed as soon as possible and in any event before the Treaty of Lisbon enters into force,
- K. whereas, in the event that the Treaty of Lisbon enters into force, it will be necessary to move on to a new — more complex — alignment of the *acquis* to the provisions of Article 290 of the Treaty on the Functioning of the European Union on delegation of legislation; whereas although the definition of the term 'delegated act' in the Treaty of Lisbon is similar to the concept of a 'quasi-legislative' measure contained in the Comitology Decision, the two concepts are not identical and the procedural regimes provided for in those two instruments are totally different; consequently, the present alignment exercise cannot be regarded as constituting an exact precedent for the future,
- L. whereas, for the same reason, the results of the alignment under way in relation to each individual legal instrument cannot be seen as a precedent for the future,

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M. whereas it appears useful to agree between the institutions on a standard passage for delegated acts that would be regularly included by the Commission in the draft legislative act, although the legislators would remain free to amend it; whereas it is necessary to proceed to the adoption in codecision of the regulation laying down the mechanisms for control by Member States of implementing acts in accordance with Article 291 of the Treaty on the Functioning of the European Union,

1. Requests the Commission to submit to Parliament, on the basis of the appropriate articles of the EC Treaty, legislative proposals completing the comitology alignment; calls for these proposals to be drawn up in the light of interinstitutional discussions and to address in particular the legislative acts listed in the Annex hereto;

2. Calls on the Commission to submit the corresponding legislative proposals for the purpose of bringing the remaining legal acts into line with the Comitology Decision, in particular those listed in the Annex hereto;

3. Requests the Commission, in the event that the present alignment procedures are not concluded prior to the entry into force of the Treaty of Lisbon, to submit the relevant legislative proposals needed to adapt those legal acts that have still not been aligned at that juncture to the new regime provided for by Article 290 of the Treaty on the Functioning of the European Union;

4. Requests the Commission to submit in any case, following the entry into force of the Treaty of Lisbon, the relevant legislative proposals needed to align the whole of the *acquis communautaire* to that new regime;

5. Requests the Commission to submit as soon as possible the draft legislative proposal for the regulation laying down in advance the rules and general principles concerning the mechanism for control by Member States of the exercise of implementing powers by the Commission, in accordance with Article 291(3) of the Treaty on the Functioning of the European Union;

6. Requests that additional resources be granted in the European Parliament for all comitology procedures, not just during the current transitional period but also in preparation for the eventuality that the Treaty of Lisbon enters into force, in order to ensure that every comitology procedure between the three institutions functions satisfactorily;

7. Confirms that the requests respect the principle of subsidiarity and the fundamental rights of citizens;

8. Instructs its President to forward this resolution and the accompanying list to the Commission, the Council and the governments and parliaments of the Member States.

ANNEX TO THE RESOLUTION:
DETAILED RECOMMENDATIONS ON THE CONTENT OF THE PROPOSAL REQUESTED

Parliament asks the Commission to present the corresponding legislative proposals to align the remaining legal acts to Council Decision 1999/468/EC of 28 June 1999 as amended by Decision 2006/512/EC, including in particular:

— Directive 2000/15/EC of the European Parliament and of the Council of 10 April 2000 amending Council Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾;

⁽¹⁾ OJ L 105, 3.5.2000, p. 34.

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- Directive 2000/25/EC of the European Parliament and of the Council of 22 May 2000 on action to be taken against the emission of gaseous and particulate pollutants by engines intended to power agricultural or forestry tractors and amending Council Directive 74/150/EEC ⁽¹⁾;
- Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97 ⁽²⁾;
- Directive 2001/43/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 92/23/EEC relating to tyres for motor vehicles and their trailers and to their fitting ⁽³⁾;
- Directive 2001/46/EC of the European Parliament and of the Council of 23 July 2001 amending Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition and Directives 70/524/EEC, 96/25/EC and 1999/29/EC on animal nutrition ⁽⁴⁾;
- Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) ⁽⁵⁾;
- Directive 2002/33/EC of the European Parliament and of the Council of 21 October 2002 amending Council Directives 90/425/EEC and 92/118/EEC as regards health requirements for animal by-products ⁽⁶⁾;
- Directive 2004/3/EC of the European Parliament and of the Council of 11 February 2004 amending Council Directives 70/156/EEC and 80/1268/EEC as regards the measurement of carbon dioxide emissions and fuel consumption of N1 vehicles ⁽⁷⁾;
- Directive 2004/41/EC of the European Parliament and of the Council of 21 April 2004 repealing certain directives concerning food hygiene and health conditions for the production and placing on the market of certain products of animal origin intended for human consumption and amending Council Directives 89/662/EEC and 92/118/EEC and Council Decision 95/408/EC ⁽⁸⁾;
- Directive 2005/33/EC of the European Parliament and of the Council of 6 July 2005 amending Directive 1999/32/EC as regards the sulphur content of marine fuels ⁽⁹⁾;
- Directive 2005/64/EC of the European Parliament and of the Council of 26 October 2005 on the type-approval of motor vehicles with regard to their reusability, recyclability and recoverability and amending Council Directive 70/156/EEC ⁽¹⁰⁾;
- Directive 2006/40/EC of the European Parliament and of the Council of 17 May 2006 relating to emissions from air-conditioning systems in motor vehicles and amending Council Directive 70/156/EEC ⁽¹¹⁾;
- Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ⁽¹²⁾;
- Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation ⁽¹³⁾.

⁽¹⁾ OJ L 173, 12.7.2000, p. 1.

⁽²⁾ OJ L 204, 11.8.2000, p. 1.

⁽³⁾ OJ L 211, 4.8.2001, p. 25.

⁽⁴⁾ OJ L 234, 1.9.2001, p. 55.

⁽⁵⁾ OJ L 108, 24.4.2002, p. 1.

⁽⁶⁾ OJ L 315, 19.11.2002, p. 14.

⁽⁷⁾ OJ L 49, 19.2.2004, p. 36.

⁽⁸⁾ OJ L 157, 30.4.2004, p. 33.

⁽⁹⁾ OJ L 191, 22.7.2005, p. 59.

⁽¹⁰⁾ OJ L 310, 25.11.2005, p. 10.

⁽¹¹⁾ OJ L 161, 14.6.2006, p. 12.

⁽¹²⁾ OJ L 210, 31.7.2006, p. 25.

⁽¹³⁾ OJ L 378, 27.12.2006, p. 41.