



EUROPEAN PARLIAMENT

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Committee on Foreign Affairs

2010/0051(COD)

7.5.2010

DRAFT OPINION

of the Committee on Foreign Affairs

for the Committee on Legal Affairs

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
(COM(2010)0083 – C7-0073/2010 – 2010/0051(COD))

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SHORT JUSTIFICATION

Article 291 TFEU provides that, where uniform conditions for implementing legally binding Union acts are needed and implementing powers are conferred on the Commission, the control on the exercise of such implementing powers by the Commission rests with the Member States solely. To this end, the European Parliament and the Council, by means of a regulation adopted in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning the mechanism for control by the Member States. Article 291 TFEU is clear: only the Member States should control the exercise of implementing powers by the Commission. This does not mean that Parliament is deprived of any possibility to intervene, should the exercise of implementing powers by the Commission counteract the intention of the legislator. Indeed, Parliament retains the possibility to transmit observations to the Commission at any time of the process leading to the adoption of implementing measures, or after such process is completed, and it can equally adopt at any stage a resolution to signify potential problems concerning draft implementing measures to the Commission, notwithstanding the fact that no express reference is made in the text of the Commission proposal. At the same time, as testified by case C-403/05 before the ECJ¹, **on instances where the Commission should not take into proper consideration Parliament's observations and concerns, Parliament can always bring an action for annulment before the Court of Justice of the European Union, if it believes that the Commission has exceeded its implementing powers.** Thus, Parliament's prerogatives as a co-legislator remain fully unaffected. It is, however, of the utmost importance, for Parliament to be able to fully and timely exercise its prerogatives, that the Commission actively informs Parliament about all draft measures, amended draft measures and final draft measures, which it intends to adopt under Article 291 TFEU. Thus, as such draft measures, amended draft measures or final draft measures become available, the Commission should transmit them formally to the European Parliament. Such transmission should be in addition to the information requirement bestowed upon the Commission on the provision of information through the Comitology register. Finally, in light of the specificity and political sensitivity of implementing acts to be adopted under the external financial assistance instruments and in line with the practice established with the democratic scrutiny dialogue, Parliament should have the opportunity to contribute to the process leading to the definition of the content of the draft implementing acts to be adopted under the external financial assistance instruments.

AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

¹ OJ C 315, 22.12.2007, p.8.

Amendment 1

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The Commission should formally transmit to the European Parliament the draft measures, any amended versions of such draft measures and the final draft measures following delivery of the opinion of the relevant committee, as they become available.

Or. en

Justification

It is fundamental that the Commission actively informs Parliament about all draft measures, amended draft measures and final draft measures which it intends to adopt under Article 291 TFEU.

Amendment 2

Proposal for a regulation Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) With regard to implementing acts under the external financial assistance instruments, the European Parliament should be consulted by the Commission during the process leading to the submission of drafts of such acts or any amended versions of such acts.

Or. en

Justification

In light of the specificity and political sensitivity of implementing acts to be adopted under the external financial assistance instruments and in line with the practice established with the democratic scrutiny dialogue, the Commission should consult Parliament during the process leading to the submission of draft implementing acts to be adopted under the external financial assistance instruments.

Amendment 3

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The European Parliament and the Council, each in its own right, may transmit to the Commission, at any stage of the procedure, observations on the draft measures, on any amended versions of such draft measures and on the final draft measures following delivery of the opinion of the relevant committee, as they see fit.

Or. en

Justification

For the sake of clarity, it should be reaffirmed that Parliament and Council, as co-legislators, each in their own right, always retain the possibility to transmit observations to the Commission at any time of the process leading to the adoption of implementing measures, if they so see fit.

Amendment 4

Proposal for a regulation Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) The European Parliament and the Council, each in its own right, may transmit to the Commission observations on the implementing measures at any time after these have been adopted.

Or. en

Justification

For the sake of clarity, it should be reaffirmed that Parliament and Council, as co-legislators, each in their own right, always retain the possibility to transmit observations to the Commission even after implementing measures have been adopted.

Amendment 5

Proposal for a regulation

Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Implementing acts under the external financial assistance instruments

When the Commission adopts implementing acts under the external financial assistance instruments, the European Parliament shall be consulted by the Commission during the process leading to the submission of drafts of such acts or any amended versions of such acts with a view to their submission to the relevant committee for an opinion under Article 4 or Article 5.

Or. en

Justification

In light of the specificity and political sensitivity of implementing acts to be adopted under the external financial assistance instruments and in line with the practice established with the democratic scrutiny dialogue, Parliament should have the opportunity to contribute to the process leading to the definition of the content of draft implementing acts to be adopted under the external financial assistance instruments.

Amendment 6

Proposal for a regulation

Article 8 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1a. The Commission shall formally transmit to the European Parliament the draft measures, any amended versions of

such draft measures and the final draft measures following delivery of the opinion of the relevant committee under Article 4 or Article 5, as they become available.

Or. en

Justification

It is fundamental that the Commission actively informs Parliament about all draft measures, amended draft measures and final draft measures which it intends to adopt under Article 291 TFEU. This information requirement is additional to the one bestowed upon the Commission on the provision of information through the comitology register.

Amendment 7

Proposal for a regulation

Article 8 – paragraph 1 – introductory wording

Text proposed by the Commission

1. The Commission shall keep a register of committee proceedings which shall contain:

Amendment

2. In addition to complying with the information requirements under paragraph -1a, the Commission shall keep a register of committee proceedings which shall contain:

Or. en

Justification

It is fundamental that the Commission actively informs Parliament about all draft measures, amended draft measures and final draft measures which it intends to adopt under Article 291 TFEU. This information requirement should by all means be additional to the one bestowed upon the Commission on the provision of information through the comitology register.

Amendment 8

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

2. The European Parliament and the Council shall have access to the information referred to in paragraph 1.

Amendment

3. The European Parliament and the Council shall have access to the information referred to in paragraph 2.

Justification

As a consequence of amendments 6 and 7. It is fundamental that the Commission actively informs Parliament about all draft measures, amended draft measures and final draft measures which it intends to adopt under Article 291 TFEU. This information requirement should by all means be additional to the one bestowed upon the Commission on the provision of information through the comitology register.