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Committee on Agriculture and Rural Development

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NOTICE TO MEMBERS

Subject: **COMITOLOGY**

Introduction: What is Comitology ?

Like national legislative systems, the European institutions have developed a system for implementing measures, as not everything can be decided by the legislator in the basic legislative acts. The Commission, as EU executive, is responsible for adopting such implementing measures (see Article 202 TEC). This task is delegated to specialised committees within the Commission, in which expert delegates from the Member States ministries meet at regular basis. Due to this system of committees, the procedures for decisions on implementing measures are usually referred to as "comitology".

Each basic legislative act defines the delegation of powers for (specific) implementing measures to one (or several) specific committees, using one or several of the specific procedures provided for in the "Comitology decision".¹

The procedures

The Comitology decision from 1999 foresees three procedures (advisory, management and regulatory procedures).

- The **advisory procedure** leaves the decision to the Commission (which takes into account the opinion of the committee)

¹ Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999; consolidated version in OJ C 255, 21.10.2006, p.4)

- In the **management procedure**, the Council can take a different decision, if the committee adopts a negative opinion. The Council can however not reject the measure proposed by the Commission. The management procedure is most commonly used for implementing measures of the Common Agricultural Policy.
- The **regulatory procedure** is more restrictive for the Commission. If the committee does not endorse the draft measure, the Council can reject it (by qualified majority).

The Parliament has called repeatedly for improved control rights with regard to comitology acts, which are based on legislation adopted under the **co-decision procedure**. In 2006, the new **regulatory procedure with scrutiny** (RPS) was introduced (Article 5a of the Comitology Decision).

RPS has to be applied for measures "of general scope" amending "non-essential elements" of the basic legal act¹ (which was adopted in co-decision procedure).

Under this RPS-procedure, the European Parliament, acting by the majority of its members, has the right to **veto** a Commission decision if it does not agree with the content of the measure (also see Rule 88).

What does Comitology mean in practice?

The Commission regularly transmits all drafts for Comitology-measures and related information to the European Parliament. DG Presidency transfers it to the committee responsible for the basic legal act (and to the opinion giving committees). The committee secretariat transfers the information to the members and the political group administrators.

For the Committee on Agriculture and Rural Development, to date most Comitology-measures concern management procedures which are communicated to the EP only "For information".

Several measures (often regarding food safety legislation) involve the "Right of Scrutiny" of the EP under the regulatory procedure. Pursuant to Article 8 of Decision 1999/468/EC, the European Parliament may adopt (**within one month**) a resolution stating its belief that such measures would **exceed the implementing powers** delegated to the Commission in the basic instrument. If the Committee on Agriculture is responsible, its secretariat sets a deadline for proposing such an objection to the measure.

Measures falling under the new regulatory procedure with scrutiny (RPS) provide effective control rights (and responsibilities) to the European Parliament. If a majority of its Members adopt a resolution objecting the draft measure, the draft measure shall not be adopted by the Commission, who may then submit an amended draft or present a legislative proposal.

In general, the European Parliament has a period of **three months** to oppose the draft measure. A basic legislation may, in duly substantiated exceptional cases, foresee an extension or a curtailment of the time-limits. When sending the draft measure to the

¹ See Article 2(2) of Decision 1999/468/EC as amended by Decision 2006/512/EC

Members, the Secretariat sets an appropriate deadline for reactions, in order to allow for the procedure set in Rule 88 to be applied within the given period.

(NB: Since application of the RPS procedure application, the EP has adopted two formal resolutions objecting draft measures under the RPS procedure¹)

Find out more:

The Conciliations and Codecision Unit in DG IPOL has published a detailed Comitology Handbook for Members.

References:

- Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC) (Consolidated version)
- 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 (OJ C143, 10.6.2008, p.1)
- European Parliament Rules of Procedure, Rule 88

In the Treaty of Lisbon, there is a provision which explicitly regulates the modalities of so-called delegated acts, which change or supplement non-essential legislation (which will replace the RPS). Nevertheless, the existing procedures will remain in force for those measures which are based on existing legislation. In addition, the Treaty of Lisbon foresees the possibility of the transfer of implementing powers to the Commission via a regulation adopted in the co-decision procedure

In case you have more questions, do not hesitate to contact the AGRI Secretariat or the colleagues in the Codecision Unit.

¹ Resolution of 6 May 2009 on Energy labelling of televisions and Resolution of 16 December 2008 on technical provisions concerning risk management