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*Committee on Economic and Monetary Affairs*

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**2010/0051(COD)**

18.5.2010

## **DRAFT OPINION**

of the Committee on Economic and Monetary 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 – 210/0051(COD))

Rapporteur: Antolín Sánchez Presedo

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## AMENDMENTS

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

### Amendment 1

#### Proposal for a regulation

##### Recital 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) Implementing powers may adapt or update certain non-essential elements of a basic act, but cannot be extended to supplement or amend such elements, since in those cases Article 290 of the Treaty on the Functioning of the European Union is applicable.***

Or. en

### Amendment 2

#### Proposal for a regulation

##### Recital 2

*Text proposed by the Commission*

*Amendment*

(2) In the context of the Treaty establishing the European Community, the exercise of implementing powers by the Commission was governed by Council Decision 1999/468/EC of 28 June 1999.

(2) In the context of the Treaty establishing the European Community, the exercise of implementing powers by the Commission was governed by Council Decision 1999/468/EC of 28 June 1999. ***This arrangement should be discontinued in order to meet the requirements laid down following the latest reform of the Treaties.***

Or. en

### Amendment 3

#### Proposal for a regulation

##### Recital 3

*Text proposed by the Commission*

(3) The Treaty on the Functioning of the European Union now requires the European Parliament and the Council to lay down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

*Amendment*

(3) The Treaty on the Functioning of the European Union now requires the European Parliament and the Council to lay down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. ***Such control does not preclude or restrict the democratic control resulting from the provisions regarding democratic principles, the conditions governing the functioning of the institutions and the application of the principles of subsidiarity and proportionality as laid down in, inter alia, Articles 5, 10, 11 and 13 of the Treaty on European Union and Protocol No 2 to the Treaties.***

Or. en

### Amendment 4

#### Proposal for a regulation

##### Recital 4

*Text proposed by the Commission*

(4) It is necessary to ensure that procedures for ***such*** control are clear, effective and proportionate to the nature of the implementing acts and that they reflect the institutional requirements of the Treaty as well as the experience gained and the common practice followed in the implementation of Decision 1999/468/EC.

*Amendment*

(4) It is necessary to ensure that procedures for control are clear, effective and proportionate to the nature of the implementing acts and that they reflect the institutional requirements of the Treaty ***and the equal footing of the European Parliament and the Council with regard to all acts adopted under the ordinary legislative procedure***, as well as the experience gained and the common practice followed in the implementation of Decision 1999/468/EC.

## Amendment 5

### Proposal for a regulation

#### Recital 5

*Text proposed by the Commission*

(5) In those basic acts which require the control of the Member States for the adoption by the Commission of implementing acts, it is appropriate that for the purposes of such a control there should be instituted committees composed of the representatives of the Member States and chaired by the Commission.

*Amendment*

(5) In those basic acts which require the control of the Member States for the adoption by the Commission of implementing acts, it is appropriate that for the purposes of such control there should be instituted committees composed of the representatives of the Member States and chaired by the Commission ***as well as observers from the Council and the European Parliament.***

## Amendment 6

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

(12) ***The*** European Parliament and the Council should be ***kept*** informed of committee proceedings ***on a regular basis.***

*Amendment*

(12) ***In order to ensure that the functions of the*** European Parliament and the Council ***established in the Treaty on the Functioning of the European Union are fully respected, they*** should be ***promptly and fully*** informed of committee proceedings ***sufficiently far in advance of the adoption of each measure.***

## Amendment 7

### Proposal for a regulation Recital 14

*Text proposed by the Commission*

*Amendment*

*(14) Decision 1999/468/EC should be repealed. In order to ensure the transition between the regime provided for in Decision 1999/468/EC and this Regulation, any reference in existing legislation to the procedures provided for in that Decision should, with the exception of the regulatory procedure with scrutiny provided for in Article 5a thereof, be understood as a reference to the corresponding procedures provided for in this Regulation. The effects of Article 5a of Decision 1999/468/EC should be maintained for the purposes of existing basic acts which refer to that Article.*

*deleted*

Or. en

## Amendment 8

### Proposal for a regulation Article 1

*Text proposed by the Commission*

*Amendment*

This Regulation lays down the rules and general principles governing the mechanisms which shall apply in cases where a legally binding Union act (hereafter "basic act") requires that the adoption of **binding** implementing acts by the Commission be subject to the control of Member States.

This Regulation lays down the rules and general principles governing the mechanisms which shall apply in cases where a legally binding Union act (hereafter "basic act") **identifies the need for uniform conditions of implementation and** requires that the adoption or exercise of implementing acts by the Commission be subject to the control of Member States.

Or. en

## Amendment 9

### Proposal for a regulation

#### Article 1 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***In cases where non-legislative acts of general application are needed in order to supplement or amend certain non-essential elements of the basic act, Article 290 of the Treaty on the Functioning of the European Union shall apply.***

Or. en

## Amendment 10

### Proposal for a regulation

#### Article 2 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

2. The examination procedure ***may only*** apply for the adoption of:

2. The examination procedure ***shall*** apply for the adoption of:

Or. en

## Amendment 11

### Proposal for a regulation

#### Article 2 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. For all other implementing measures, and for implementing measures referred to in paragraph 2 where it is considered to be appropriate, the advisory procedure ***shall*** apply.

3. For all other implementing measures, and for implementing measures referred to in paragraph 2 where it is considered to be appropriate, the advisory procedure ***may*** apply.

Or. en

## Amendment 12

### Proposal for a regulation Article 3 – paragraph 2

*Text proposed by the Commission*

2. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission.

*Amendment*

2. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission ***as well as observers from the Council and the European Parliament.***

Or. en

## Amendment 13

### Proposal for a regulation Article 3 – paragraph 5 –subparagraph 1

*Text proposed by the Commission*

5. The chairperson may obtain the committee's opinion by written procedure. He or she shall send the committee members the draft measures on which their opinion is sought and shall lay down a time-limit according to the urgency of the matter. Any committee member who does not explicitly oppose or abstain before the time-limit laid down expires is considered to have given their tacit agreement to the draft measures.

*Amendment*

5. The chairperson may obtain the committee's opinion by written procedure. He or she shall send the committee members ***and observers*** the draft measures on which their opinion is sought and shall lay down a time-limit according to the urgency of the matter. Any committee member who does not explicitly oppose or abstain before the time-limit laid down expires is considered to have given their tacit agreement to the draft measures.

Or. en



## **Amendment 14**

### **Proposal for a regulation Article 6 a (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 6a*

##### ***Objection to draft implementing measures***

***1. If the European Parliament or the Council expresses its objection to draft implementing measures the adoption of which is contemplated and which have been submitted to a committee pursuant to a basic act adopted under Article 294 of the Treaty on the Functioning of the European Union, on the grounds that those measures would exceed the implementing powers conferred in the basic act, the Commission shall re-examine the draft measures.***

***2. Taking the reasons for objections into account and within the time-limits of the procedure under way, the Commission shall new draft measures for consideration by the committee or submit a proposal to the European Parliament and the Council on the basis of the Treaty on the Functioning of the European Union.***

***3. The Commission shall inform the European Parliament, the Council and the committee of the action which it intends to take and of its reasons for doing so.***

Or. en

## Amendment 15

### Proposal for a regulation

#### Article 8 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***(ea) the positions of the members of the committee and statements of the reasons therefor,***

Or. en

## Amendment 16

### Proposal for a regulation

#### Article 8 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

2. The European Parliament and the Council shall have ***equal*** access to the information referred to in paragraph 1. ***To that end, the European Parliament and the Council shall be sent all information referred to in paragraph 1 at the same time and on the same terms as it is sent to the committee members.***

Or. en

## Amendment 17

### Proposal for a regulation

#### Article 8 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 8a***

#### ***Annual report on the exercise of implementing powers***

***The Commission shall each year submit to the Member States a report on the exercise of implementing powers***

*conferred on the Commission pursuant to Article 291 of the Treaty on the Functioning of the European Union. The Member States may also submit their remarks to be annexed to the report.*

*The annual report, together with the annex, shall be sent to the European Parliament, the national parliaments, the European Council and the Council, and shall also be forwarded to the European Economic and Social Committee and the Committee of the Regions.*

Or. en

## **Amendment 18**

### **Proposal for a regulation Article 8 b (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 8b*

##### *Alignment of the acquis*

*By [date] at the latest, the Commission shall review basic acts adopted before the entry into force of this Regulation with a view to adapting those acts to the new rules on delegated and implementing powers set out in Articles 290 and 291 of the Treaty on the Functioning of the European Union. The Commission shall regularly report to the European Parliament and to the Council on the progress of that review. Where appropriate, such reports shall be accompanied by legislative proposals.*

Or. en

## **Amendment 19**

### **Proposal for a regulation Article 9**

*Text proposed by the Commission*

*Amendment*

#### *Article 9*

*deleted*

#### *Repeal of Decision 1999/468/EC*

*Decision 1999/468/EC shall be repealed.*

*The effects of Article 5a of the repealed Decision shall be maintained for the purposes of existing basic acts making reference thereto.*

Or. en

## **Amendment 20**

### **Proposal for a regulation Article 10**

*Text proposed by the Commission*

*Amendment*

#### *Article 10*

*deleted*

#### *Adaptation of existing basic acts*

*1. Where basic acts adopted before the entry into force of this Regulation provide for the exercise of implementing powers by the Commission in accordance with Decision 1999/468/EC, the following rules shall apply:*

*(a) references to Article 3 of Decision 1999/468/EC shall be understood as references to Article 4 of this Regulation;*

*(b) references to Articles 4 and 5 of Decision 1999/468/EC shall be understood as references to Article 5 of this Regulation;*

*(c) references to Article 6 of Decision 1999/468/EC shall be understood as references to Article 6 of this Regulation;*

*(d) references to Articles 7 and 8 of Decision 1999/468/EC shall be understood as references to Article 8 of this Regulation.*

*2. Articles 3 and 7 of this Regulation shall apply to all existing committees.*

Or. en

## **Amendment 21**

**Proposal for a regulation**  
**Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 12a*

*Review*

*Within three years of the entry into force of this Regulation, and taking into account the input provided by Member States, the Commission shall present a general report on the procedures laid down in this Regulation and, if appropriate, put forward a new legislative proposal.*

Or. en

## **Amendment 22**

**Proposal for a regulation**  
**Article 12 –paragraph 2**

*Text proposed by the Commission*

*Amendment*

*Article 10 of this Regulation shall apply from 1 December 2010.*

*deleted*

Or. en

