



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2012/2323(INI)

25.9.2013

AMENDMENTS

1 - 11

Draft opinion
Monika Flašíková Beňová
(PE506.206v01-00)

on the 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))

AM_Com_NonLegOpinion

Amendment 1
Monika Flašíková Beňová

Draft opinion
Recital A (new)

Draft opinion

Amendment

A. Whereas the Treaty of Lisbon provides for a new hierarchy of norms consisting of legislative acts, in which the legislator decides on essential elements, delegated acts, to be adopted by the Commission under the control of the legislator to amend or supplement certain non-essential elements of the legislative act, and implementing acts, normally to be adopted by the Commission under the control of Member States when uniform conditions for the implementation of Union acts are needed;

Or. en

Amendment 2
Monika Flašíková Beňová

Draft opinion
Recital B (new)

Draft opinion

Amendment

B. Whereas the vast majority of legal acts adopted in the field of police cooperation and judicial cooperation in criminal matters (former third pillar) were not amended since the entry into force of the Lisbon Treaty and thereby continue to operate outside the system of delegated and implementing acts (Articles 290 and 291 of the TFEU) as well as - for a transition period of five years - without the Commission being able to launch infringement procedures and the Court of

Justice having the limited powers of the former treaty (Article 10 of Protocol 36);

Or. en

Amendment 3
Monika Flašíková Beňová

Draft opinion
Recital C (new)

Draft opinion

Amendment

C. Whereas the intergovernmental conference invited the institutions to seek to amend or replace the legal acts of the former third pillar in order to entail the full applicability of the powers of the institutions as provided for in the Lisbon Treaty (Declaration No. 50 concerning Article 10 of Protocol 36, Article 10(2) of Protocol 36); whereas the European Parliament in its resolution of 25 November 2009 on the Stockholm Programme requested with reference to Article 265 TFEU (failure to act) a number of priority proposals from the Commission by 1 September 2010 of which several are outstanding;

Or. en

Amendment 4
Timothy Kirkhope

Draft opinion
Paragraph 1

Draft opinion

Amendment

1. Considers it *democratically inappropriate and contrary to the principle of the rule of law* that, three

1. Considers it *to be concerning* that, three years after the entry into force of the Lisbon Treaty, procedures for the

years after the entry into force of the Lisbon Treaty, procedures for the implementation of former third pillar acts which often exclude Parliament or provide only for consultation, irrespective of the nature of the decisions to be taken, continue to be used; calls on the Commission to include in its work programme for 2014, at the latest, proposals to amend all legal acts of the former third pillar to align them with the new hierarchy of norms under the Lisbon Treaty; stresses that this will require an individual assessment of each legal act in order to identify decisions which – as essential elements – need to be taken by the legislator, including where they touch upon the fundamental rights of the persons concerned, and those that can be considered to be non-essential (see ruling of the Court of Justice in the case C-355/01); proposes the setting-up of an interinstitutional working party to this end;

implementation of former third pillar acts which often exclude Parliament or provide only for consultation, irrespective of the nature of the decisions to be taken, continue to be used; calls on the Commission to include in its work programme for 2014, at the latest, proposals to amend all legal acts of the former third pillar to align them with the new hierarchy of norms under the Lisbon Treaty; stresses that this will require an individual assessment of each legal act in order to identify decisions which – as essential elements – need to be taken by the legislator, including where they touch upon the fundamental rights of the persons concerned, and those that can be considered to be non-essential (see ruling of the Court of Justice in the case C-355/01); proposes the setting-up of an interinstitutional working party to this end;

Or. en

Amendment 5 **Marie-Christine Vergiat**

Draft opinion **Paragraph 1**

Draft opinion

1. ***Considers it democratically inappropriate*** and contrary to the principle of the rule of law that, three years after the entry into force of the Lisbon Treaty, procedures for the implementation of former third pillar acts which often exclude Parliament or provide only for consultation, irrespective of the nature of the decisions to be taken, continue to be used; calls on the Commission to include in its work programme for 2014, at the latest, proposals to amend all legal acts of the

Amendment

1. ***Condemns as undemocratic*** and contrary to the principle of the rule of law ***the fact*** that, three years after the entry into force of the Lisbon Treaty, procedures for the implementation of former third pillar acts which often exclude Parliament or provide only for consultation, irrespective of the nature of the decisions to be taken, continue to be used; calls on the Commission to include in its work programme for 2014, at the latest, proposals to amend all legal acts of the

former third pillar to align them with the new hierarchy of norms under the Lisbon Treaty; stresses that this will require an individual assessment of each legal act in order to identify decisions which – as essential elements – need to be taken by the legislator, **including** where they touch upon the fundamental rights of the persons concerned, and those that can be considered to be non-essential (see ruling of the Court of Justice in the case C-355/01); proposes the setting-up of an interinstitutional working party to this end;

former third pillar **in order** to align them with the new hierarchy of norms **and to respect Parliament's powers, competences and right to information with regard to the delegation of powers to the Commission** under the Lisbon Treaty; stresses that this will require an individual assessment of each legal act in order to identify decisions which – as essential elements – need to be taken by the legislator, **particularly** where they touch upon the fundamental rights of the persons concerned, and those that can be considered to be non-essential (see ruling of the Court of Justice in the case C-355/01); proposes the setting-up of an interinstitutional working party to this end **in order to establish criteria for the use of delegated or implementing acts on the basis of Article 290 of the TFEU; calls on the Council and the Commission to enter into negotiations with Parliament with a view to reaching agreement on such criteria as quickly as possible;**

Or. fr

Amendment 6
Monika Flašíková Beňová

Draft opinion
Paragraph 1a (new)

Draft opinion

Amendment

1a. Draws attention to the fact that the Council continues to adopt legal acts on the basis of provisions of the former third pillar, long after the entry into force of the Treaty of Lisbon, such that the Parliament has been required to bring legal action before the Court of Justice such as in Case C-317/013 challenging Council Decision 2013/129/EU of 7 March 2013 on subjecting 4-

methylamphetamine to control measures.

Or. en

Amendment 7
Timothy Kirkhope

Draft opinion
Paragraph 2

Draft opinion

2. Deeply deplores the Council's insistence, and often also that of the Commission, on implementing acts even in cases where the criteria for delegated acts, as laid down in Article 290 TFEU, are clearly met;

Amendment

deleted

Or. en

Amendment 8
Marie-Christine Vergiat

Draft opinion
Paragraph 2

Draft opinion

2. Deeply deplores the Council's insistence, and often also that of the Commission, on implementing acts even in cases where the criteria for delegated acts, as laid down in Article 290 TFEU, are clearly met;

Amendment

2. Strongly condemns the Council's insistence, and often also that of the Commission, on implementing acts even in cases where the criteria for delegated acts, as laid down in Article 290 TFEU, including the stipulation that the power delegated to the Commission covers only the adoption of non-legislative acts to supplement or amend non-essential elements of a legislative act, are clearly met;

Or. fr

Amendment 9
Monika Flašíková Beňová

Draft opinion
Paragraph 2a (new)

Draft opinion

Amendment

2a. Believes that the choice between delegated acts or implementing acts needs to be made on a case-by-case basis. That choice requires careful consideration with reference, in each case, to the requirements of Articles 290 and 291 of the TFEU. Believes, in that regard, that indicative guidelines on the application of those articles could prove useful.

Or. en

Amendment 10
Timothy Kirkhope

Draft opinion
Paragraph 3

Draft opinion

Amendment

3. Insists on the correct use of delegated acts in the new financial programmes; *believes that decisions such as the setting of priorities and the allocation of financial resources among those priorities clearly supplement the basic act and therefore, require delegated acts;*

3. Insists on *an independent and legal review of* the correct use of delegated acts in the new financial programmes; *is concerned about the excessive delay of discussions concerning justice and home affairs programmes with a financial element which may result in the cancellation of some vital programmes.*

Or. en

Amendment 11
Marie-Christine Vergiat

Draft opinion
Paragraph 3

Draft opinion

3. Insists on the correct use of delegated acts in the new financial programmes; believes that decisions such as the setting of priorities and the allocation of financial resources among those priorities clearly supplement the basic act and therefore, require delegated acts;

Amendment

3. Insists on the correct use of delegated acts in the new financial programmes; believes that decisions such as the setting of priorities and the allocation of financial resources among those priorities clearly supplement the basic act and therefore, require, ***at least***, delegated acts, ***in so far as such decisions only concern existing legislative acts***;

Or. fr