



# Background

## New deal on comitology: Parliament can block Commission decisions

**A compromise reached on 13 June 2006 by representatives of the Commission, the Parliament and the Council on the so-called comitology procedure allows MEPs, for the first time, to block implementing decisions taken by the Commission. It also means Parliament will be informed of these decisions in all official languages and extends the time available for Parliamentary scrutiny.**

After a five month negotiation, undertaken, on behalf of the Parliament, by Richard Corbett (PES, UK) and Joseph Daul (EPP-ED, FR), the three EU Institutions agreed to reform the current comitology system, which gives no real blocking power to MEPs. The agreement also improves Parliament's rights to be informed, by ensuring that the Commission provides detailed information on all comitology activities in all official languages.

Mr Daul said "The agreement is a major breakthrough for the Parliament. Now it enjoys real power of control on Commission's most important implementing measures. We have wanted to achieve this since the Maastricht Treaty. This is not the end of the line: the Constitution provided for a better solution and we'll keep on working to further improve Parliament's role in comitology procedures."

Mr Corbett, speaking during a debate on 21 June in the Legal Affairs Committee, called the compromise "a significant step forward for the European Parliament... if the EP objects, the Commission cannot enact its measures - though there are limits: it applies only to codecision matters."

The EU legislature - when the codecision procedure is used, this means the Parliament and the Council - often delegates powers to Commission to adopt the detailed measures need to implement legislation. The comitology system enables the Council to scrutinise the work of the Commission and, in most important cases, to block its decisions. The comitology procedures have been criticised since their introduction, mainly because Parliament does not enjoy the same rights as the Council, despite its role as co-legislator. At present, the Commission, when exercising these delegated implementing powers, can proceed with decisions, even if the Parliament opposes them.

With the new agreement, Parliament and Council are now put on equal footing for all comitology procedures related to codecision acts.

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## **The new compromise: main achievements for the Parliament**

Parliament will be able to block quasi-legislative implementing measures under codecision legislation by simply saying "No" and explaining its decision. If this happens, the Commission cannot enact the measures and has to propose either a new comitology decision or a new legislative act under the codecision procedure.

The system of transmission of information from the Commission to Parliament has been improved. At present, documents are delivered in one or up to three languages. The Commission has now agreed to set up a detailed information system on all comitology committees' activities. Moreover, new provisions guarantee that all papers are transmitted in all Parliaments' official languages.

The time limit for MEPs to scrutinise the proposed decisions is increased from one month to three, extendable to four for the most complex issues. The clock will start ticking only when the EP has received full documentation in all official languages. MEPs regard this as a significant achievement, since the one month deadline was often not sufficient to enable Parliament to adopt an opinion.

The new provisions are set out in a proposal to amend the Council Decision 1999/468/CE and a Joint Declaration of the three Institutions, explaining the content of the agreement.

## The right to block decisions

The main accomplishment of the new agreement is the new article 5 of a Council Decision modifying the 1999 act on the implementing rights of the Commission (1999/468/EC). This introduces a new Regulatory procedure with scrutiny.

The new provision enables Parliament to block the Commission's decisions taken under the comitology procedures by an absolute majority of MEPs (i.e. 367 votes are needed for the resolution to pass). This applies to legislative acts falling under codecision. MEPs can oppose the Commission's measures if they believe the executive body has exceeded its mandate agreed in the legal act, or that the measures are outside the scope of the legislation, or, finally, that they do not respect the subsidiarity principle. The Commission can respond either by presenting new draft measures or a new legislative proposal. If Parliament does not oppose the implementing measures in the time provided, the Commission can adopt them.

## What happens now?

The new procedures should apply to all forthcoming legislative proposals. They should also apply retroactively to 25 existing measures indicated by Parliament.

The EP Committee on Constitutional Affairs, and its rapporteur Mr Corbett, will now discuss the results of the negotiations and prepare a recommendation for the plenary. The first exchange of views took place in the committee on 22 June and the plenary vote is due for July part-session.

The agreement and the associated Joint Declaration must be ratified by all three Institutions to come into force. The Commission formally approved the texts on 22 June.

## What is comitology and how did it begin?

Comitology is the system used by Member States to control the Commission when it is adopting implementing measures under Community legislation.

As in most national systems, the legislature can delegate implementing powers to an executive body. The comitology procedures derive from the practical need to adapt and amend technical regulations, particularly in Single Market rules. On the one hand, the Council itself could not deal with the full implementation of all EC legislation. On the other hand, Member States did not want to lose control over decision-making process. Therefore, it was decided that the Commission, when exercising its delegated implementing powers, would be obliged to work with national civil servants, appointed by Member States, in different committees. The institutionalisation of this committee system was given the name "comitology".

With the Single European Act (SEA) and the introduction of EC Treaty article 202, the comitology procedure was given a formal legal basis. The subsequent Council decision of 1987 (87/373/EEC) introduced the current 3 main procedures and related committees:

- Advisory committees, required just to deliver an opinion on the Commission's implementing measures;
- Management committees, able to block, by qualified majority voting (QMV), a decision taken by the executive and to refer it to the Council;
- Regulatory committees, where, on the contrary, their positive support, expressed by QMV, is necessary to have the Commission's decisions adopted. This procedure mainly applies to codecision legislation.

The system gave no power of scrutiny to the European Parliament.

## **Parliamentary involvement in comitology procedures - the 1999 Decision**

A Council Decision of June 1999 (1999/468/EC) reformed the comitology procedure in many aspects. In particular, it improved Parliament's involvement, especially in areas covered by the codecision procedure. Under article 7.3, Parliament was granted, for the first time, the right to be informed on a regular basis of the activities of the comitology committees. MEPs received agendas, reports and draft measures dealing with acts adopted under codecision. Article 8 brought in the right of scrutiny: Parliament could check whether the Commission had exceeded its implementing powers, as delegated by the legislature. If Parliament decided that this was the case, the Commission could submit new draft measures, submit a new proposal or simply continue the procedure. So despite this reform, the Council and EP were not on equal footing, as the Commission could proceed with its measures even if MEPs rejected them.

## Comitology in action

In 2004, 248 comitology committees were in existence. They met 1062 times and adopted 2625 measures. These figures give an idea of the difficulties encountered by the EP in scrutinising all the decisions within the one month limit.

In practice, Parliament has rarely exercised its existing powers by adopting a resolution according to article 8 of the 1999 Decision. Between July 2000 and July 2005, the EP adopted six resolutions regarding comitology measures, of which four were under article 8.

In the case of the Resolution on the Safe harbour privacy principles (05.07.2000), the EP objected to the content of the draft presented by the Commission and called for it to be reviewed. Despite this, the Commission adopted the implementing Decision (2000/520/EC).

In another case, the Resolution on the postponement of the ban on the marketing of cosmetics tested on animals (24.09.2002), the EP resolution was not based on Art 8 because the act was not under co-decision. Formally speaking, therefore, this was a normal political resolution as provided for by Parliament's own rules of procedure. Nevertheless, the Commission, in this case, followed Parliament's advice and did not adopt the implementing measure.

The Treaty establishing a Constitution for Europe proposes a new system to delegate executive powers to the Commission. It would introduce a distinction between non-essential measures and true implementing decisions to avoid the existing problems. According to this text, the Parliament would enjoy a real "call back" right, allowing to it to revoke the delegation and not a power to simply block Commission's measures, as it is the case for the present agreement.