



What is comitology and does it still have a role under Lisbon Treaty?

- EP vote on delegating acts in April
- New implementing rules for each new law

It's one thing to agree on new laws, implementing them is another, often complicated, issue. Until now the European Commission's implementation of much EU legislation was overseen by committees of Member State experts, through the so-called "comitology" system, which was criticised for its lack of transparency and democratic oversight. The Lisbon Treaty will replace comitology with "delegated acts", which come under parliamentary control.

"The consequences of this change are considerable as the EP has achieved its historical maturity being placed on the same footing as Council," according to Hungarian Christian Democrat József Szájer, the author of an EP report on the new system.

With "delegated acts" the European Commission will be able to set out the technical requirements flowing from EU law, provided they don't affect the "core" legislation decided by Parliament and the Council. The delegation of power to the Commission will be subject to limits, conditions and controls.

"The entry into force of the Treaty of Lisbon has brought a complete change from the old comitology system to a new legal framework including delegated and implementing acts. Having introduced a hierarchy of norms, it reinforces the democratic character of the Union and rationalises its legal order," said Mr Szájer.

EP's role in delegated powers

The precise legal framework is still under discussion and a report on how delegated acts will work is due to be discussed in plenary in April, after being approved by the Legal Affairs Committee on 23 March. The Szájer report says the goals, content, scope and duration of each case of delegation must be "expressly and meticulously" defined for each piece of new law.

The report also looks at control of the use of delegated powers by the Commission, the EP's right of objection and revocation, the duration and renewal of a delegation and a need for a Common Understanding between the institutions on practical arrangements.

Mr Szájer says the new system is a tool for better law-making: "The objective of the delegation is to ensure that legislation can remain simple and be completed and updated without needed to have recourse to legislative procedures, whilst the legislator maintain its ultimate power and responsibility".

"Comitology" explained

So how does comitology work and why did it attract criticism? Perhaps you remember the stir in 2004 when genetically modified maize was allowed to be grown in the EU despite opposition from a majority of EU countries. Critics said that comitology had allowed the Commission to lift the moratorium on GMOs via the back door. Parliament had no say.

As in most national systems, the legislative can delegate implementing powers to the executive. When Council and Parliament adopt a new law a legal framework is created, including objectives and timeframe. But more detailed measures, for example lists of substances or products still need to be defined.

So as not to overburden the legislators and because of practical issues involved in adapting legislation these measures are left to the Commission. Member States wanted to retain control over decision-making so the Commission worked with national civil servants in 100s of committees, a system of delegating decision-making powers that became known as "comitology". Little information was available about their meetings, raising concerns about transparency.

Need for reform

Introduced in the 1960's for the implementation of the common agricultural policy, until recently the comitology system gave a very limited role to Parliament. It did not have the same rights as Council to be informed, contest or block decisions.

As the EP's powers increased, it demanded a say and in 1999 Parliament got the right to be informed of comitology decisions and access to documents was improved, but MEPs wanted more reform.

In June 2006, there was a new "regulatory procedure with scrutiny". It gave Parliament better oversight and a right of veto the Commission implementing measures flowing from laws decided upon jointly by Parliament and Council. The agreement however implied a right only to accept or reject a proposed measure, not to amend.

With the Lisbon Treaty it disappears. But comitology will apply to legislation adopted before the treaty came into force, unless the legislation is amended in which case it will fall under the new rules.

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MEP József Szájer