

# EUROPEAN PARLIAMENT

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**A6-0429/2008**

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## **REPORT**

on the proposal for a directive of the European Parliament and of the Council relating to common provisions for both measuring instruments and methods of metrological control (recast)  
(COM(2008)0357 – C6-0237/2008 – 2008/0123(COD))

Committee on Legal Affairs

Rapporteur: József Szájer

(Recast – Rule 80a of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council relating to common provisions for both measuring instruments and methods of metrological control (recast)**

**(COM(2008)0357 – C6-0237/2008 – 2008/0123(COD))**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0357),
  - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0237/2008),
  - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>1</sup>,
  - having regard to Rules 80a and 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs (A6-0429/2008),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

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<sup>1</sup> OJ C 77, 28.3.2002, p. 1.

## EXPLANATORY STATEMENT

Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>1</sup> was amended by Council Decision 2006/512/EC of 17 July 2006<sup>2</sup>. Article 5a of amended Decision 1999/468/EC introduced the new ‘regulatory procedure with scrutiny’ (RPS) for *‘measures of a general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with codecision, inter alia by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements’*.

Following the screening of the existing legislation and ongoing procedures<sup>3</sup>, the European Commission presented inter alia this recast proposal, transformed from a codification in order to incorporate the amendments necessary for the alignment to RPS.

In its decision of 12 December 2007 the Conference of Presidents designated the Committee on Legal Affairs as the lead Committee to deal with this ‘comitology alignment’ and the specialised committees as opinion-giving committees. The Conference of Committee Chairs agreed on 15 January 2008 on the modalities of cooperation between the Committee on Legal Affairs and the other committees involved.

The rapporteur accepts the alignment to RPS as proposed and does not suggest any amendments, apart from the technical adaptations suggested by the Consultative Working Party of the Legal Services.

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<sup>1</sup> OJ L 184, 17.7.1999, p. 23.

<sup>2</sup> OJ L 200, 22.7.2006, p. 11.

<sup>3</sup> COM(2007)0740.

**ANNEX: OPINION IN LETTER FORM OF THE LEGAL SERVICES'  
CONSULTATIVE WORKING PARTY**

**OPINION**

**FOR THE ATTENTION OF      THE EUROPEAN PARLIAMENT  
THE COUNCIL  
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council relating to common provisions for both measuring instruments and methods of metrological control (recast)  
COM(2008) 357 final of 13.6.2008 – 2008/0123 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 19 June and 15 July 2008 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At that meeting<sup>1</sup>, an examination of the proposal for a directive of the European Parliament and of the Council recasting Council Directive 71/316/EEC of 26 July 1971 on common provisions for both measuring instruments and methods of metrological control resulted in the Consultative Working Party's establishing, by common accord, as follows.

(1) At the end of the text of recital 9, which corresponds to the final recital of Directive 71/315/EEC, the final part of the text of the latter should be reinstated. Recital 9 of the proposed codification should thus read as follows: *'National metrological rules cover numerous categories of measuring instruments and products. This Directive should lay down the general provisions dealing, in particular, with EC pattern approval and initial verification procedures, as well as EC methods of metrological control. Implementing directives covering the various categories of instruments and products will lay down the technical requirements as to design, functioning and accuracy, the control procedures and, where appropriate, the conditions under which Community technical requirements are to replace the national provisions in force'*.

(2) In Article 1, paragraph 3, of the codified text, the words *'or of a product described in paragraph 1'*, which currently appear after the words *'of an instrument'* in Article 1, paragraph 2, of Directive 71/316/EEC, should be reinstated. In the codified version of the act,

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<sup>1</sup> The Consultative Working Party had at its disposal 22 language versions of the proposal and worked on the basis of the French version, being the original version of the working document.

therefore, Article 1, paragraph 3, should read as follows: *'No Member State may, on the basis of this Directive and the separate directives relating to it, prevent, prohibit, or restrict the placing on the market and/or entry into service of an instrument or of a product described in paragraph 1 if that instrument bears EC marks and/or signs in accordance with the conditions laid down by this Directive and by the separate directives relating to the instrument in question'*.

(3) The current wording of Article 1, paragraph 4, first subparagraph, of Directive 71/316/EEC should be reinstated in the place of the adapted text that appears in Article 1, paragraph 5, of the codified text. The wording of Article 1, paragraph 5, of the codification proposal should therefore read as follows:

*'5. The separate directives concerning the subjects referred to in paragraph 1 shall specify:*  
*- in particular, the measurement procedures and characteristics of, and the technical requirements for, their design and functioning, as regards the products referred to in paragraph 1 (a),*  
*- the requirements concerning paragraph 1 (b) and (c)'.*

(4) In Annex III, the act of accession of Greece should be included among the acts which have amended the directive.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

C. PENNERA  
Jurisconsult

J.-C. PIRIS  
Jurisconsult

C. F. DURAND  
Acting Director-General

## PROCEDURE

<b>Title</b>	Measuring instruments and methods of metrological control (recast version)
<b>References</b>	COM(2008)0357 – C6-0237/2008 – 2008/0123(COD)
<b>Date submitted to Parliament</b>	13.6.2008
<b>Committee responsible</b> Date announced in plenary	JURI 19.6.2008
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	IMCO 19.6.2008
<b>Not delivering opinions</b> Date of decision	IMCO 24.6.2008
<b>Rapporteur(s)</b> Date appointed	József Szájer 19.12.2007
<b>Date adopted</b>	4.11.2008
<b>Result of final vote</b>	+: 24 -: 0 0: 0
<b>Members present for the final vote</b>	Carlo Casini, Titus Corlăţean, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Othmar Karas, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Antonio Masip Hidalgo, Hans-Peter Mayer, Manuel Medina Ortega, Aloyzas Sakalas, Francesco Enrico Speroni, Diana Wallis, Jaroslav Zvěřina, Tadeusz Zwiefka
<b>Substitute(s) present for the final vote</b>	Sharon Bowles, Eva Lichtenberger, Rareş-Lucian Niculescu, Georgios Papastamkos, Gabriele Stauner, József Szájer, Jacques Toubon, Renate Weber