



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0072/2012

27.3.2012

REPORT

on the amendment of Rules 87a and 88 of Parliament's Rules of Procedure
(2009/2195(REG))

Committee on Constitutional Affairs

Rapporteur: Carlo Casini

PR_REG

CONTENTS

	Page
PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	3
EXPLANATORY STATEMENT	15
RESULT OF FINAL VOTE IN COMMITTEE.....	17

PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the amendment of Rules 87a and 88 of Parliament's Rules of Procedure (2009/2195(REG))

The European Parliament,

- having regard to the letter from its President of 9 October 2009,
 - having regard Articles 290 and 291 of the Treaty on the Functioning of the European Union,
 - having regard to Regulation (EU) No 182/2011 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 powers¹,
 - having regard to its resolution of 5 May 2010 on the power of legislative delegation²,
 - having regard to Rules 211 and 212 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs (A7-0072/2012),
1. Decides to amend its Rules of Procedure as shown below;
 2. Points out that the amendments will enter into force on the first day of the next part-session;
 3. Instructs its President to forward this decision to the Council and the Commission, for information.

Amendment 1

Parliament's Rules of Procedure Rule 87 a

Present text

Where a legislative act delegates to the Commission the power to supplement or amend certain non-essential elements of a legislative act, the committee responsible:

Amendment

1. When the Commission forwards a delegated act to Parliament, the President shall refer it to the committee responsible for the basic legislative act, which may decide to appoint a rapporteur to consider one or more delegated acts.

¹ OJ L 55, 28.2.2011, p. 13.

² OJ C 81E, 15.3.2011, p. 6.

– *shall examine any draft delegated act where it is transmitted to Parliament for scrutiny;*

– *may submit to Parliament in a motion for a resolution any appropriate proposal in accordance with the provisions of the legislative act.*

The provisions of Rule 88(1), (2) and (3) shall apply mutatis mutandis.

Amendment 2

Parliament's Rules of Procedure Rule 87 a – paragraph 1 a (new)

Present text

Amendment

1a. The President shall announce to Parliament the date on which the act was received in all the official languages and the period during which objections may be raised. The period in question shall commence on that date.

The announcement shall be published in the minutes of the sitting together with the name of the committee responsible.

Amendment 3

Parliament's Rules of Procedure Rule 87 a – paragraph 1 b (new)

Present text

Amendment

1b. In accordance with the provisions of the basic legislative act and – if the committee responsible considers it appropriate to do so – after consulting any committees concerned, the committee responsible may table a reasoned motion for a resolution. That motion for a resolution shall state whether or not Parliament objects to the delegated act. In the former case, the motion for a resolution shall state the reasons for

Parliament's objections and may incorporate a request to the Commission to submit a new delegated act which takes account of Parliament's recommendations.

Amendment 4

Parliament's Rules of Procedure Rule 87 a – paragraph 1 c (new)

Present text

Amendment

1c. If, 10 working days prior to the start of the part-session the Wednesday of which falls before and closest to the day of expiry of the deadline referred to in paragraph 1d, the committee responsible has not tabled a motion for a resolution, a political group or at least 40 Members may table a motion for a resolution on the matter for inclusion on the agenda for the part-session referred to above.

Amendment 5

Parliament's Rules of Procedure Rule 87 a – paragraph 1 d (new)

Present text

Amendment

1d. Parliament shall take a decision – by the deadline laid down in the basic legislative act and by the majority stipulated in Article 290 of the Treaty on the Functioning of the European Union – on any motion for a resolution tabled.

Where the committee responsible considers that it is appropriate to extend the deadline for raising objections to the delegated act in accordance with the basic legislative act, the committee chair shall notify the Council and the Commission, on behalf of Parliament, of that extension.

Amendment 6

Parliament's Rules of Procedure Rule 87 a – paragraph 1 e (new)

Present text

Amendment

1e. If the committee responsible recommends that, prior to the expiry of the deadline set in the basic legislative act, Parliament should declare that it has no objections to the delegated act:

– it shall inform the Chair of the Conference of Committee Chairs by means of a letter setting out its reasons and table a recommendation to that effect;

– if no objections are raised at the next meeting of the Conference of Committee Chairs, or, on grounds of urgency, by written procedure, the Chair of that body shall inform the President of Parliament, who shall in turn inform the plenary as soon as possible;

– if, within 24 hours following the announcement in plenary, a political group or at least 40 Members object to the recommendation, it shall be put to the vote;

– if, within the same period, no objections are raised, the proposed recommendation shall be deemed to have been approved;

– the adoption of such a recommendation shall render inadmissible any subsequent proposal objecting to the delegated act.

Justification

There is a need to ensure that the recommendation is dealt with in plenary as quickly as possible. The obligation to inform the Council and the Commission is restated at the end of the rule.

Amendment 7

Parliament's Rules of Procedure Rule 87 a – paragraph 1 f (new)

Present text

Amendment

1f. The committee responsible may, in accordance with the provisions of the basic legislative act, submit to Parliament a reasoned motion for resolution revoking, in full or in part, the delegation of powers provided for by that act. Parliament shall take a decision by the majority stipulated in Article 290 of the Treaty on the Functioning of the European Union.

Amendment 8

Parliament's Rules of Procedure Rule 87 a – paragraph 1 g (new)

Present text

Amendment

1g. The President shall inform the Council and Commission of the positions taken under this Rule.

Amendment 9

Parliament's Rules of Procedure Rule 88 – title

Present text

Amendment

Implementing measures

Implementing ***acts and*** measures

Justification

Since Parliament argues that regulatory measures with scrutiny should become delegated acts when the existing legislation is adapted, it seems more appropriate to retain terminology which makes a clear distinction between implementing acts under Article 291 TFEU and measures which, for a transitional period, are still covered by the regulatory procedure with scrutiny.

Amendment 10

Parliament's Rules of Procedure

Rule 88 – paragraph 1

Present text

1. When the Commission forwards a draft *of* implementing *measures* to Parliament, the President shall refer *the draft of measures* to the committee responsible for the act *from which the implementing measures derive*. *If the procedure with associated committees was applied with regard to the basic act, the committee responsible shall invite each of the associated committees to state its views orally or by letter.*

Amendment

1. When the Commission forwards a draft implementing *act or measure* to Parliament, the President shall refer *it* to the committee responsible for the *basic legislative act, which may decide to appoint a rapporteur to consider one or more draft implementing acts.*

Amendment 11

Parliament's Rules of Procedure

Rule 88 – paragraph 2

Present text

2. The *Chair of the* committee responsible *shall set a deadline for Members to propose that the committee object to the draft of measures*. *If the committee considers it to be appropriate, it may decide to appoint a rapporteur from among its members or permanent substitutes*. *If the committee objects to the draft of measures, it shall table a motion for a resolution opposing the adoption of the draft of measures which may also indicate the changes that should be made*

Amendment

2. The committee responsible *may table a reasoned motion for a resolution stating that a draft implementing act or measure goes beyond the implementing powers provided for in the basic legislative act or is not consistent with EU law in other respects.*

to the draft of measures.

If, within the applicable deadline calculated from the date of receipt of the draft of measures, Parliament adopts such a resolution the President shall ask the Commission to withdraw or amend the draft of measures or submit a proposal under the appropriate legislative procedure.

Amendment 12

Parliament's Rules of Procedure Rule 88 – paragraph 3

Present text

3. If there is no part-session before the deadline expires, the right of response shall be deemed to have been delegated to the committee responsible. This response shall take the form of a letter from the committee chair to the Member of the Commission responsible, and shall be brought to the attention of all Members of Parliament.

Amendment

3. The motion for a resolution may incorporate a request to the Commission to withdraw the act, the measure or the draft act or measure, to amend it in keeping with the objections raised by Parliament, or submit a new legislative proposal. The President shall inform the Council and Commission of the decision taken.

Amendment 13

Parliament's Rules of Procedure Rule 88 – paragraph 4 – introductory part

Present text

*4. If the implementing measures envisaged by the Commission fall under the regulatory procedure with scrutiny, **paragraph 3 shall not apply and paragraphs 1 and 2 shall be supplemented as follows:***

Amendment

*4. If the implementing acts envisaged by the Commission fall under the regulatory procedure with scrutiny **provided for by Council Decision 1999/468/EC of 28 June 1999 laying down procedures for the exercise of the implementing powers conferred on the Commission, the following additional provisions shall apply:***

Amendment 14

Parliament's Rules of Procedure Rule 88 – paragraph 4 – point a

Present text

a) the time for scrutiny shall start to run when the draft of measures has been submitted to Parliament in all the official languages. Where shorter time ***limits apply*** (Article 5a(5)(b) of Council Decision 1999/468/EC ***laying down the procedures for the exercise of implementing powers conferred on the Commission***) and in cases ***of urgency*** (Article 5a(6) of Decision 1999/468/EC), the time for scrutiny shall, unless the Chair of the committee responsible objects, start to run from the date of receipt by Parliament of the final draft implementing measures in the language versions submitted to the members of the committee set up in accordance with Decision 1999/468/EC. Rule 146 shall not apply in this case;

Amendment

a) the time for scrutiny shall start to run when the draft of measures has been submitted to Parliament in all the official languages. Where ***the*** shorter time ***limit for scrutiny provided for in*** Article 5a(5)(b) of Council Decision 1999/468/EC ***applies***, and in ***the urgent*** cases ***provided for in*** Article 5a(6) of Decision 1999/468/EC, the time for scrutiny shall, unless the Chair of the committee responsible objects, start to run from the date of receipt by Parliament of the final draft implementing act in the language versions submitted to the members of the committee set up in accordance with Decision 1999/468/EC. Rule 146 shall not apply in this case;

Amendment 15

Parliament's Rules of Procedure Rule 88 – paragraph 4 – point a (new)

Present text

Amendment

(aa) if the draft implementing measure is based on paragraph 5 or 6 of Article 5a of Decision 1999/468/EC, which prescribes curtailed time limits for opposition by Parliament, a motion for a resolution opposing the adoption of the draft measure may be tabled by the Chair of the committee responsible if that committee has not been able to meet in the time available.

Amendment 16

Parliament's Rules of Procedure
Rule 88 – paragraph 4 – point b

Present text

b) Parliament, acting by a majority of its component Members, may oppose the adoption of the draft *of measures, justifying its opposition* by indicating that the draft of measures exceeds the implementing powers provided for in the basic *instrument*, is not compatible with the aim or the content of the basic *instrument* or does not respect the principles of subsidiarity or proportionality;

Amendment

b) Parliament, acting by a majority of its component Members, may oppose the adoption of the draft *implementing measure* by indicating that the draft exceeds the implementing powers provided for in the basic *act*, is not compatible with the aim or the content of the basic *act* or does not respect the principles of subsidiarity or proportionality;

Amendment 17

Parliament's Rules of Procedure
Rule 88 – paragraph 4 – point c

Present text

c) if the draft of measures is based on paragraph 5 or 6 of Article 5a of Decision 1999/468/EC, which prescribes curtailed time limits for opposition by Parliament, a motion for a resolution opposing the adoption of the draft of measures may be tabled by the Chair of the committee responsible if that committee has not been able to meet in the time available.

Amendment

deleted

Amendment 18

Parliament's Rules of Procedure
Rule 88 – paragraph 4 – point c a (new)

Present text

Amendment

(ca) if the committee responsible, in response to a duly substantiated request from the Commission, recommends, by means of a letter to the Chair of the Conference of Committee Chairs setting

out its reasons, that Parliament should declare that it has no objections to the proposed act prior to the expiry of the normal time limit laid down in Article 5a(3)(c) and/or Article 5a(4)(e) of Decision 1999/468/EC, the procedure provided for in Rule 87a(1e) shall apply.

Amendment 19

Parliament's Rules of Procedure Rule 88 a – title (new)

Present text

Amendment

Rule 88 a

Consideration under the procedure with associated committees or the procedure with joint committee meetings

Amendment 20

Parliament's Rules of Procedure Rule 88 a – paragraph 1 (new)

Present text

Amendment

1. If the basic legislative act was adopted by Parliament under the procedure provided for in Rule 50, the following additional provisions shall apply to the consideration of delegated acts and draft implementing acts or measures:

- the delegated act or draft implementing act or measure shall be forwarded to the committee responsible and the associated committee;*
- the Chair of the committee responsible shall set a deadline by which the associated committee may draw up proposals on matters falling within its exclusive competence or the two committees' joint competence;*
- if the delegated act or draft*

implementing act or measure falls mainly within the exclusive competence of the associated committee, the latter's proposals shall be accepted without a vote by the committee responsible; failing that, the President may authorise the associated committee to table a motion for a resolution in plenary.

Amendment 21

Parliament's Rules of Procedure Rule 88 a – paragraph 2 (new)

Present text

Amendment

2. If the basic legislative act was adopted by Parliament under the procedure provided for in Rule 51, the following additional provisions shall apply to the consideration of delegated acts and draft implementing acts or measures:

- upon receipt of the delegated act or draft implementing act or measure, the President shall determine which committee is responsible or which committees are jointly responsible for its consideration, in accordance with the criteria laid down in Rule 51 and any agreements reached between the chairs of the committees concerned;

- if a delegated act or a draft implementing act or measure has been forwarded for consideration under the procedure with joint committee meetings, each committee may request that a meeting be convened to consider a motion for a resolution. If the chairs of the committees concerned fail to reach agreement, the joint meeting shall be convened by the Chair of the Conference of Committee Chairs.

Amendment 22

Parliament's Rules of Procedure

Rule 216 – paragraph 4

Present text

4. The corrigendum shall be announced at the following part-session. It shall be deemed approved unless, not later than **48 hours** after its announcement, a request is made by a political group or at least 40 Members that it be put to the vote. If the corrigendum is not approved, it shall be referred back to the committee responsible which may propose an amended corrigendum or close the procedure.

Amendment

4. The corrigendum shall be announced at the following part-session. It shall be deemed approved unless, not later than **24 hours** after its announcement, a request is made by a political group or at least 40 Members that it be put to the vote. If the corrigendum is not approved, it shall be referred back to the committee responsible which may propose an amended corrigendum or close the procedure.

Justification

As legislative acts are always signed on Wednesday afternoons, the 48-hour time limit is problematic for legislative texts requiring the announcement, approval and inclusion of a corrigendum and which, for legal or political reasons, have to be signed by the President of the Parliament and the President of the Council during the same part-session.

EXPLANATORY STATEMENT

Background

The entry into force of the Lisbon Treaty brought about a radically change in the comitology procedure, turning it into a new system for adopting delegated acts and implementing acts. The implementation of Article 290 TFEU was the subject of a non-binding common understanding¹ among the institutions. The common understanding concerning Article 291 TFEU provided for the adoption of a regulation laying down ‘in advance the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers’².

The revision of the Rules of Procedure entailed by these changes stemming from the entry into force of the Lisbon Treaty also enables us to meet a request from the President of the European Parliament for a procedure which sets out more clearly the arrangements for the rapid approval of a delegated act or implementing act.

The new Rule 87a, in combination with the new Rule 88, lays down the standard procedure to be followed, i.e. that involving consideration of the proposed delegated act or implementing act by a committee responsible without associated committees or committees jointly responsible. The procedure applicable in cases involving associated committees or committees jointly responsible is laid down in a new Rule 88a.

Delegated acts (Rule 87a)

The first three paragraphs of the new rule lay down the procedure to be followed when the Commission forwards a delegated act to Parliament. The first paragraph specifies that the delegated act is to be referred to the committee responsible for the basic legislative act and gives that committee the option of appointing a rapporteur. In keeping with point 7 of the common understanding, paragraph 2 specifies the juncture at which the period during which Parliament may raise an objection to the proposed delegated act starts to run, and paragraph 5 specifies that Parliament must take a decision by the deadline set in the basic legislative act and by the majority laid down in Article 290 TFEU.

Although, as a general rule, the committee responsible takes the lead in triggering an objection procedure, the aim is not that it should enjoy a monopoly of the right to do so. Accordingly, the fourth paragraph gives the Conference of Presidents the right to include the matter on the draft agenda for the plenary sitting, on the basis of a motion for a resolution tabled by a political group or at least 40 Members.

The procedure whereby Parliament declares, prior to the expiry of the deadline set in the basic

¹ Common understanding on practical arrangements for the use of delegated acts (Article 290 TFEU).

² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers.

legislative act, that it does not intend to raise objections to the delegated act, as provided for in point 11 of the common understanding, needed to be formalised, in particular in order to enhance the legal certainty of any such decision. The procedure chosen by your rapporteur is very largely based on that outlined in Rule 211 of the Rules of Procedure; at the same time it is made clear that a decision not to raise objections renders any subsequent proposal to object inadmissible.

Finally, the last point lays down the procedure for revoking a delegation of powers provided for in the basic legislative act.

Implementing acts (Rule 88)

Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, which was adopted on the basis of Article 291(3) TFEU, sets out the arrangements governing the exercise (by the Commission, or, in specific cases, by the Council) of the implementing powers provided for by Article 291(2) TFEU.

In addition to establishing parallels with the procedure for delegated acts, the revision of the Rules of Procedure to bring them into line with these new procedures also had to take account of a number of specific points.

Prior to the entry into force of the Lisbon Treaty, the exercise of implementing powers by the Commission was governed by Council Decision 1999/468/EC of 28 June 1999.

Although the new provisions will apply immediately in respect of legislative acts adopted after the entry into force of the new Regulation 182/2011 (and although Article 13 of that regulation lays down transitional provisions governing the revision of existing basic acts if they are based on Articles 3, 4 or 5 of Decision 1999/468/EC), during the period needed to bring the existing legislation into line a number of legislative acts will continue to be covered by the regulatory procedure with scrutiny pursuant to Article 5a of Decision 1999/468/EC.

The provisions of that Article 5a should therefore continue to apply to basic acts which are based on it. Paragraph 4 of the new Rule 88 makes provision for this by taking over almost en bloc the existing provisions of the Rules of Procedure, supplementing them, in particular, by incorporating the rapid approval procedure.

Specific provisions governing procedures with associated committees or joint committee meetings (Rule 88a)

The incorporation of the new Rule 88a reflects the need to take account of cases in which the basic act was adopted under the procedure provided for in Rule 50 or 51 of the Rules of Procedure. This new rule, which lays down the procedure to be followed in such cases, thus supplements the provisions of the preceding rules.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	20.3.2012
Result of final vote	+: 22 -: 0 0: 1
Members present for the final vote	Alfredo Antoniozzi, Andrew Henry William Brons, Carlo Casini, Andrew Duff, Ashley Fox, Roberto Gualtieri, Enrique Guerrero Salom, Zita Gurmai, Gerald Häfner, Daniel Hannan, Stanimir Ilchev, Constance Le Grip, Morten Messerschmidt, Paulo Rangel, Algirdas Saudargas, Indrek Tarand, Rafał Trzaskowski, Manfred Weber, Luis Yáñez-Barnuevo García
Substitute(s) present for the final vote	Zuzana Brzobohatá, György Schöpflin, Alexandra Thein, Rainer Wieland