



**COUNCIL OF
THE EUROPEAN UNION**



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Council adopts new "comitology" rules

The Council today adopted¹ a regulation laying down new rules for the control by member states of the Commission's exercise of its implementing powers ([64/10](#) + [5768/11 ADD 1](#)), following a first-reading agreement with the European Parliament.

The new regulation is intended to put into practice article 291 of the Treaty on the Functioning of the European Union (TFEU) on **implementing acts**.² It replaces Council decision 1999/468 on the exercise of implementing powers conferred on the Commission ("comitology" decision) as far as the consultation, management and regulatory procedures are concerned. **Delegated acts** as provided for in article 290 of TFEU³ cover almost the same type of measures as those adopted so far under the "regulatory procedure with scrutiny" which the Council introduced into the "comitology" decision in 2006.⁴

¹ The decision was taken, without debate, at a session of the Education, Youth, Culture and Sport Council in Brussels.

² In line with article 291 TFEU implementing powers are conferred on the Commission where uniform conditions for implementing legally binding EU acts by the member states are needed.

³ In line with article 290 TFEU the EU legislators (i.e. the Council and the European Parliament) may delegate to the Commission the power to supplement or amend certain non-essential elements of a legislative act (such as maximum levels of contaminants in food contained in the annex of a legislative act). They may also decide to revoke this delegation or to object to a Commission delegated act. The specific objectives, content, scope and duration of a delegation will be defined in each legislative act making a delegation ("basic act").

⁴ As article 290 was applicable from 1 December 2009 the European Parliament and the Council could no longer refer to the "regulatory procedure with scrutiny" in new legislative basic acts. For existing basic acts, however, the "regulatory procedure with scrutiny" is provisionally maintained until at the latest 2014.

P R E S S

The new regulation on implementing acts establishes two procedures for controlling the Commission's exercise of implementing powers: an advisory and an examination procedure. The two types of procedures will be run with the help of committees composed of the representatives of the member states and chaired by the Commission. The Commission must try to find solutions which receive the widest possible support of these committees.

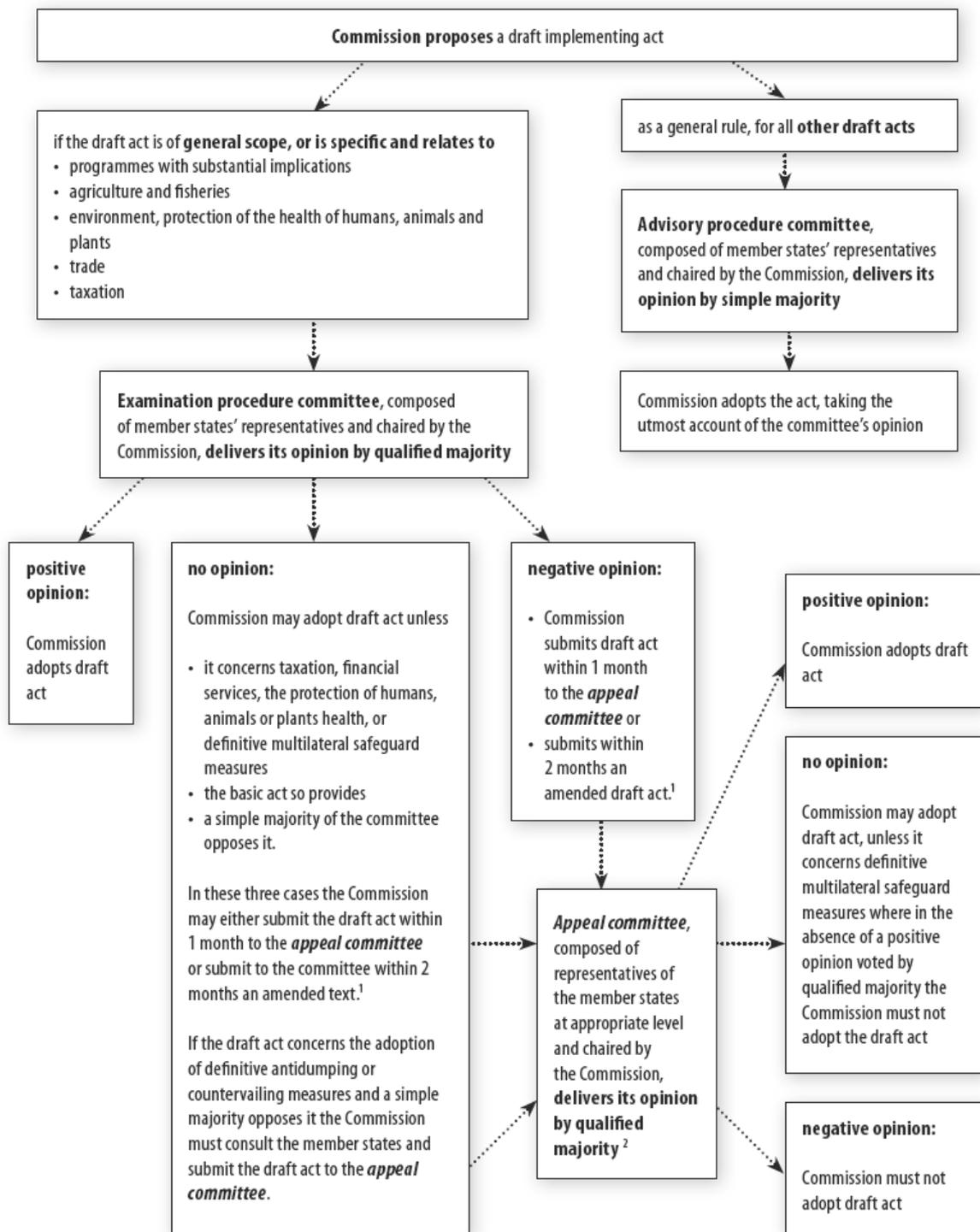
The **examination procedure** applies in particular for the adoption of measures of general scope (such as the technical details related to the online collection system of statements of support for the European citizens' initiative) and specific measures with a potentially important impact, for instance in the field of agriculture, fisheries, environment, health, trade and taxation (*see flow-chart in the annex*). It aims to ensure that Commission implementing acts are supported by a qualified majority of the committee. If, however, the committee delivers a negative opinion the Commission may either submit its draft act to an appeal committee for further discussions or amend the text. If the examination procedure committee does not deliver an opinion the Commission may adopt the draft act under certain conditions. Within this procedure, specific rules apply for trade policy.

The **advisory procedure** applies as a general rule for the adoption of implementing acts in other fields (such as individual measures in the field of culture). The Commission must take the utmost account of the committee's opinions which are adopted by a simple majority.

The new regulation also confers on the European Parliament and the Council a **right of scrutiny**. Where the basic legislative act has been adopted under the co-decision procedure, the European Parliament or the Council may at any time inform the Commission that it considers the draft implementing act to exceed the powers which they conferred on it. In such a case, the Commission must review the draft act and decide whether to maintain, amend or withdraw it.

The regulation on implementing acts enters into force on 1 March 2011. Article 290 of TFEU on delegated acts is applicable since 1 December 2009.

New comitology rules (art. 291 TFEU)



¹ However, the Commission may adopt the proposed measures without delay where this is necessary to avoid a significant disruption of the markets in agriculture or a risk for the financial interest of the EU, and submit the act immediately to the appeal committee. If the appeal committee delivers a positive opinion or no opinion, these measures remain in force. If the appeal committee delivers a negative opinion, the Commission must repeal the act.

² For a period of 18 months after the entry into force of the new regulation, the appeal committee delivers its opinion on definitive draft anti-dumping or countervailing measures by a simple majority.