

Council Decision of 17 July 2006 amending Decision 1999/468/
EC laying down the procedures for the exercise of implementing
powers conferred on the Commission (2006/512/EC)

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(2006/512/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third indent of Article 202 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament⁽¹⁾,

Whereas:

- (1) The Council adopted Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾. That Decision provided for a limited number of procedures for the exercise of such powers.
- (2) That Decision should be amended in order to introduce a new type of procedure for the exercise of implementing powers, the regulatory procedure with scrutiny, which allows the legislator to oppose the adoption of draft measures where it indicates that the draft exceeds the implementing powers provided for in the basic instrument, or that the draft is incompatible with the aim or the content of that instrument or fails to respect the principles of subsidiarity or proportionality.
- (3) It is necessary to follow the new regulatory procedure with scrutiny for measures of general scope designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.
- (4) In this same framework, it should be ensured that the European Parliament receives better information on the work of committees,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 1999/468/EC is hereby amended as follows:

1. at the end of recital 5, the following shall be added:

‘with the exception of those governing the regulatory procedure with scrutiny’;

2. after recital (7), the following recital shall be inserted:

(7a) It is necessary to follow the regulatory procedure with scrutiny as regards measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, *inter alia* by deleting some of those elements or by supplementing the instrument by the addition of new nonessential elements. This procedure should enable the two arms of the legislative authority to scrutinise such measures before they are adopted. The essential elements of a legislative act may only be amended by the legislator on the basis of the Treaty;;

3. recital (10) shall be replaced by the following:

(10) The third purpose of this Decision is to improve information to the European Parliament by providing that the Commission should inform it on a regular basis of committee proceedings, that the Commission should transmit to it documents related to activities of committees and inform it whenever the Commission transmits to the Council measures or proposals for measures to be taken; particular attention will be paid to the provision of information to the European Parliament on the proceedings of committees in the framework of the regulatory procedure with scrutiny, so as to ensure that the European Parliament takes a decision within the stipulated deadline.;

4. in Article 1:

‘5a’ shall be inserted between ‘5’ and ‘and 6’ in the last line;

5. in Article 2:

(a) in the first paragraph the words ‘1. Without prejudice to paragraph 2,’ shall be inserted at the beginning of the text;

(b) the following paragraph shall be added:

2. Where a basic instrument, adopted in accordance with the procedure referred to in Article 251 of the Treaty, provides for the adoption of measures of general scope designed to amend non-essential elements of that instrument, *inter alia* by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements, those measures shall be adopted in accordance with the regulatory procedure with scrutiny.;

6. in Article 4(2) and Article 5(2), the terms ‘and (4)’ shall be added after ‘Article 205(2)’;

7. after Article 5, the following Article shall be inserted:

Article 5a

Regulatory procedure with scrutiny

- 1 The Commission shall be assisted by a Regulatory Procedure with Scrutiny Committee composed of the representatives of the Member States and chaired by the representative of the Commission.
- 2 The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) and (4) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
- 3 If the measures envisaged by the Commission are in accordance with the opinion of the Committee, the following procedure shall apply:
 - a the Commission shall without delay submit the draft measures for scrutiny by the European Parliament and the Council;
 - b the European Parliament, acting by a majority of its component members, or the Council, acting by a qualified majority, may oppose the adoption of the said draft by the Commission, justifying their opposition by indicating that the draft measures proposed by the Commission exceed the implementing powers provided for in the basic instrument or that the draft is not compatible with the aim or the content of the basic instrument or does not respect the principles of subsidiarity or proportionality;
 - c if, within three months from the date of referral to them, the European Parliament or the Council opposes the draft measures, the latter shall not be adopted by the Commission. In that event, the Commission may submit to the Committee an amended draft of the measures or present a legislative proposal on the basis of the Treaty;
 - d if, on expiry of that period, neither the European Parliament nor the Council has opposed the draft measures, the latter shall be adopted by the Commission.
- 4 If the measures envisaged by the Commission are not in accordance with the opinion of the Committee, or if no opinion is delivered, the following procedure shall apply:
 - a the Commission shall without delay submit a proposal relating to the measures to be taken to the Council and shall forward it to the European Parliament at the same time;
 - b the Council shall act on the proposal by a qualified majority within two months from the date of referral to it;
 - c if, within that period, the Council opposes the proposed measures by a qualified majority, the measures shall not be adopted. In that event, the Commission may submit to the Council an amended proposal or present a legislative proposal on the basis of the Treaty;
 - d if the Council envisages adopting the proposed measures, it shall without delay submit them to the European Parliament. If the Council does not act

within the two-month period, the Commission shall without delay submit the measures for scrutiny by the European Parliament;

- e the European Parliament, acting by a majority of its component members within four months from the forwarding of the proposal in accordance with point (a), may oppose the adoption of the measures in question, justifying their opposition by indicating that the proposed measures exceed the implementing powers provided for in the basic instrument or are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality;
- f if, within that period, the European Parliament opposes the proposed measures, the latter shall not be adopted. In that event, the Commission may submit to the Committee an amended draft of the measures or present a legislative proposal on the basis of the Treaty;
- g if, on expiry of that period, the European Parliament has not opposed the proposed measures, the latter shall be adopted by the Council or by the Commission, as the case may be.

5 By way of derogation from paragraphs 3 and 4, a basic instrument may in duly substantiated exceptional cases provide:

- a that the time-limits laid down in paragraphs 3(c), 4(b) and 4(e) shall be extended by an additional month, when justified by the complexity of the measures; or
- b that the time-limits laid down in paragraphs 3(c), 4(b) and 4(e) shall be curtailed where justified on the grounds of efficiency.

6 A basic instrument may provide that if, on imperative grounds of urgency, the timelimits for the regulatory procedure with scrutiny referred to in paragraphs 3, 4 and 5 cannot be complied with, the following procedure shall apply:

- a if the measures envisaged by the Commission are in accordance with the opinion of the Committee, the Commission shall adopt the measures, which shall immediately be implemented. The Commission shall without delay communicate them to the European Parliament and to the Council;
- b within a time-limit of one month following that communication, the European Parliament, acting by a majority of its component members, or the Council, acting by a qualified majority, may oppose the measures adopted by the Commission, on the grounds that the measures exceed the implementing powers provided for in the basic instrument or are not compatible with the aim or the content of the basic instrument or do not respect the principles of subsidiarity or proportionality;
- c in the event of opposition by the European Parliament or the Council, the Commission shall repeal the measures. It may however provisionally maintain the measures in force if warranted on health protection, safety or environmental grounds. In that event, it shall without delay submit to the Committee an amended draft of the measures or a legislative proposal on the basis of the Treaty. The provisional measures shall remain in force until they are replaced by a definitive instrument..

8. In Article 7(3) at the end of the first sentence, the following shall be added:

‘following arrangements which ensure that the transmission system is transparent and that the information forwarded and the various stages of the procedure are identified.’.

Article 2

This Decision shall take effect on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 17 July 2006.

For the Council

The President

E. TUOMIOJA

Status: This is the original version (as it was originally adopted).

- (1) Not yet published in the Official Journal.
- (2) [OJ L 184, 17.7.1999, p. 23.](#)