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*Committee on the Environment, Public Health and Food Safety*

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**2012/2323(INI)**

30.5.2013

## **OPINION**

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Legal Affairs

on follow-up on the delegation of legislative powers and the control by  
Member States of the Commission's exercise of implementing powers

(2012/2323(INI))

Rapporteur: Matthias Groote

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## SUGGESTIONS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Notes that the delegation of power to the Commission is not merely a technical issue but can involve questions of political sensitivity of considerable importance to EU citizens and consumers, including the authorisation of health and nutrition claims, food additives and active chemical substances, food labelling, the definition of drinks and foodstuffs, and the functioning of the EU Emissions Trading System (ETS);
2. Emphasises that the delegation of power is a choice for Parliament as a co-legislator, which it should exercise with care on a case-by-case basis having regard to the need to safeguard its prerogatives and to ensure transparency, consistency and legal certainty in EU law-making;
3. Recalls that it is ‘clear from the provisions of Articles 290 and 291 of the Treaty that delegated acts and implementing acts are answering different needs and therefore cannot be substituted by one for another’<sup>1</sup>;
4. Insists that, in the context of any post-Lisbon alignment of a legislative act, those measures previously subject to the regulatory procedure with scrutiny should clearly become delegated acts, and not implementing acts, as delegated acts are foreseen for exactly the same purpose as measures subject to the regulatory procedure with scrutiny (that is, to adopt measures of general scope/application designed to supplement or amend certain non-essential elements of the legislative act), unless exceptionally justified; considers that such justifications should be evaluated within a reasonable amount of time, bearing in mind the time limits applicable in legislative procedures;
5. Strongly criticises the Council for trying systematically not only to avoid delegated acts in new legislation at all costs, but even to roll back the pre-Lisbon alignment procedure by unduly trying to turn measures subject to the regulatory procedure with scrutiny into implementing acts in post-Lisbon alignment acts; calls on the Council to respect the provisions of the Treaty as regards the clearly distinct nature of delegated acts relative to implementing acts;
6. Considers that while a decision not to delegate certain non-essential elements – and to keep instead any changes thereto in the ordinary legislative procedure – may be an appropriate solution in some cases (in that it respects the prerogatives of both the Council and Parliament), it would not be appropriate in other cases where it would be disproportionate to the nature of the non-essential element to be amended, and would thus, de facto, act as a brake on what may well be important adaptations;
7. Considers that, in order to strengthen the position of its rapporteurs in legislative negotiations, more recourse should be made to Rule 37a of its Rules of Procedure;

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<sup>1</sup> ‘Handbook on Delegated Acts/Implementing Acts’, DG IPOL, February 2013, p. 16.

emphasises that it is entirely within the discretion of the legislator to decide, among the non-essential elements of the basic act, which are to be regulated through a delegation of powers to the Commission and which are to remain regulated at the legislative level; believes that politically important elements, such as Union lists or registers of products or substances, should remain an integral part of the basic act – where appropriate in the form of Annexes; stresses that the creation of self-standing lists should be avoided in the interests of legal certainty;

8. Requests the Secretary-General to prepare a study on the outcome of legislative negotiations between Parliament and the Council involving the issue of delegated and implementing acts, with a view to providing advice and best-practice guidelines for rapporteurs and others involved in future negotiations;
9. Takes the view that the current Commission practice as regards the transmission and filing of delegated acts and the agendas and documents concerning preparatory meetings is less well developed than for implementing acts and does not amount to an appropriate mechanism within the meaning of the Common Understanding on Delegated Acts; calls on the Commission to ensure as soon as possible that at least the same level of information and transparency is provided as in the case of the existing comitology register;
10. Is of the opinion that the current arrangements concerning its oversight of implementing acts are inadequate and should not be limited to draft acts; calls for Article 11 of the implementing acts Regulation to be amended so that (in principle and with the exception of acts adopted for reasons of urgency) Parliament has the right to scrutinise an implementing act within a period of one month following its adoption.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	29.5.2013
<b>Result of final vote</b>	+: 36 -: 2 0: 0
<b>Members present for the final vote</b>	Elena Oana Antonescu, Sophie Auconie, Sergio Berlato, Lajos Bokros, Franco Bonanini, Yves Cochet, Anne Delvaux, Jill Evans, Elisabetta Gardini, Matthias Groote, Françoise Grossetête, Cristina Gutiérrez-Cortines, Satu Hassi, Jolanta Emilia Hibner, Karin Kadenbach, Christa Kläß, Eija-Riitta Korhola, Jo Leinen, Corinne Lepage, Peter Liese, Zofija Mazej Kukovič, Linda McAvan, Miroslav Ouzký, Gilles Pargneaux, Pavel Poc, Frédérique Ries, Kārlis Šadurskis, Richard Seeber, Claudiu Ciprian Tănăsescu, Glenis Willmott, Sabine Wils
<b>Substitute(s) present for the final vote</b>	Margrete Auken, Philippe Juvin, Alda Sousa, Rebecca Taylor, Marita Ulvskog, Vladimir Urutchev
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Stanimir Ilchev