

COUNCIL DECISION (87/373/EEC)

of 13 July 1987

laying down the procedures for the exercise of implementing powers conferred on the Commission

THE COUNCIL OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the
European Economic Community, and in
particular Article 145 thereof,

Having regard to the proposal from the
Commissionⁱ,

Having regard to the opinion of the Euro-
pean Parliamentⁱⁱ,

Whereas, in the acts which it adopts, the
Council confers on the Commission powers
for the implementation of the rules which
the Council lays down; whereas the Council
may impose certain requirements in respect
of the exercise of these powers; whereas it
may also reserve the right, in specific cases,
to exercise directly implementing powers
itself;

Whereas, in order to improve the efficiency
of the Community's decision-making proc-
ess, the types of procedure to which it may
henceforth have recourse should be limited;
whereas certain rules governing any new
provision introducing procedures for the
exercise of implementing powers conferred
by the Council on the Commission should
therefore be laid down;

Whereas this Decision must not affect pro-
cedures for implementing Commission pow-
ers contained in acts which predate its entry
into force; whereas it must be possible, when
amending or extending such acts, to adapt
the procedures to conform with those set out

in this Decision or to retain the existing
procedures,

HAS DECIDED AS FOLLOWS:

Article 1

Other than in specific cases where it reserves
the right to exercise directly implementing
powers itself, the Council shall, in the acts
which it adopts, confer on the Commission
powers for the implementation of the rules
which it lays down. The Council shall spec-
ify the essential elements of these powers.

The Council may impose requirements in
respect of the exercise of these powers,
which must be in conformity with the proce-
dures set out in Articles 2 and 3.

Article 2

Procedure I

The Commission shall be assisted by a
committee of an advisory nature composed
of the representatives of the Member States
and chaired by the representative of the
Commission.

The representative of the Commission shall
submit to the committee a draft of the meas-
ures 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, if necessary by
taking a vote.

The opinion shall be recorded in the min-
utes; in addition, each Member State shall
have the right to ask to have its position
recorded in the minutes.

The Commission shall take the utmost ac-
count of the opinion delivered by the com-
mittee. It shall inform the committee of the

ⁱ OJ No C 70, 25. 3. 1986, p. 6.

ⁱⁱ OJ No C 297, 24. 11. 1986, p. 94.

manner in which its opinion has been taken into account.

Procedure II

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

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 148 (2) 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.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:

Variant (a)

The Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication;

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Variant (b)

The Commission shall defer application of the measures which it has decided for a period to be laid down in each act adopted by the Council, but which may in no case exceed three months from the date of communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Procedure III

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

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 148 (2) 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.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

Variant (a)

If, on the expiry of a period to be laid down in each act to be adopted by the Council under this paragraph but which may in no case exceed three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Variant (b)

If, on the expiry of a period to be laid down in each act to be adopted by the Council under this paragraph but which may in no case exceed three months from the date of

6.5 Comitology procedures (previous)

referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission, save where the Council has decided against the said measures by a simple majority.

Article 3

The following procedure may be applied where the Council confers on the Commission the power to decide on safeguard measures:

- the Commission shall notify the Council and the Member States of any decision regarding safeguard measures.

It may be stipulated that before adopting this decision the Commission shall consult the Member States in accordance with procedures to be determined in each case,

- any Member State may refer the Commission's decision to the Council within a time limit to be determined in the act in question.

Variante (a)

The Council, acting by a qualified majority, may take a different decision within a time limit to be determined in the act in question.

Variante (b)

The Council, acting by a qualified majority, may confirm, amend or revoke the decision adopted by the Commission. If the Council has not taken a decision within a time limit to be determined in the act in question, the decision of the Commission is deemed to be revoked.

Article 4

This Decision shall not affect the procedures for the exercise of the powers conferred on the Commission in acts which predate its entry into force.

Where such acts are amended or extended the Council may adapt the procedures laid down by these acts to conform with those set out in Articles 2 and 3 or retain the existing procedures.

Article 5

The Council shall review the procedures provided for in this Decision on the basis of a report submitted by the Commission before 31 December 1990.

Done at Brussels, 13 July 1987.

For the Council

The President

P. SIMONSEN