

The Comitology Process



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WHAT IS COMITOLOGY?

- * Apart from the legislative procedure, the EU has a special procedure allowing for the delegation by the legislator of the detailed implementing measures to the executive (like in any other MS)
- * Delegation by the EU legislator(s) to the EU executive = delegation by the European Parliament and the Council to the European Commission
- * Commission assisted and controlled by a **committee** (one representative of each Member State)
- * Additional control by the European Parliament and the Council

Hierarchy of EU Legislation

- * Treaties (Primary Law, subject to signature and ratification)
- * Directives and Regulations (Reg 714/2009) (full legislative process)
- * EC Regulations and other “implementing documents (comitology)

Comitology – Principle of Hierarchy

- * **Enabling Act – Reg. 714/2009**
 - * Act adopted by the EP and Council
 - * Requiring implementing measures of general scope
- * **Act Adopted by Comitology – Network Codes**
 - * Implementing act adopted by the EC, amending non-essential elements of the act

Comitology before Lisbon (1)

- * **Legal basis**

- * **Article 202 Treaty on European Union**
- * Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission (Consolidated version, OJ C255, 21.10.2006)
- * **Regulation (EC) N°714/2009** as enabling act refers to the use of the Regulatory Procedure with Scrutiny (RPS)

Comitology before Lisbon (2)

- * Scope of RPS Implementation of act adopted via co-decision (enabling act) providing for the adoption of:
 - * measures of general scope;
 - * that are designed to amend non essential elements of the enabling act, inter alia, by deleting some of them or by supplementing it by the addition of non essential elements

What happens next?

- * **OPTION 1 : the Committee delivers a positive opinion: scrutiny by Council and European Parliament (3 months)**
- * Non opposition by the Council or by the EP => act adopted by the Commission
- * Opposition by either the Council or the EP based on 3 grounds => act not adopted => EC may submit an amended proposal to the Committee or present a legislative proposal

What happens next?

- * **OPTION 2 : the Committee delivers a negative opinion/ no opinion**
- * Council opposes (2 months, no limited ground) => act not adopted => EC may submit amended proposal to Council or present a legislative proposal
- * Council considers adoption/does not decide (2 months)
 - * Opposition by EP (within 2 months, 3 grounds) => act not adopted => EC may submit an amended proposal to the Committee or present a legislative proposal
 - * Non-opposition by EP => act is adopted by the EP or by the Council

Transition Period

- * Pre-Lisbon RPS procedures used until the enabling act is revised (mid-2014)
- * What does this mean for Network Codes?
 - * Some/all will be subject to RPS
 - * Those discussed after the enabling act is revised will be subject to post-Lisbon **delegated acts procedure**

Post-Lisbon Innovations

- * Delegated Acts (Article 290 of TFEU) instead of RPS
- * Reinforcement of the role of European Parliament (equal to Council)
- * No compulsory consultation of the Committee – EC “assisted” by expert group
- * Possibility to revoke the delegation (by ordinary legislative procedure)

Implications for Electricity Network Codes

- * Most/all codes likely to be completed under pre-Lisbon regime
- * EC confirmed this at 31 May 2013 meeting
- * Comitology intended to ensure compatibility of codes with Reg. 714/2009, with EU legislation and to ensure that the rules are clear and enforceable
- * EC values the development process (FG, NC, Com)
- * **Only limited, necessary changes at Comitology**

Indicative timeline for CACM

- * 31 May 2013 – introductory comitology meeting – no text
- * July 2013 – EC Network Code on CACM
- * Sept 2013 – Comitology meeting to discuss text
- * Nov 2013 – Comitology meeting to finalise text
- * April 2014 – Commission adopts Network Code

Other Network Codes

- * Oct 2013 – RfG and DCC
- * Late 2013/2014 – remaining codes

Thank You