

EU LEGISLATIVE PROCEDURES & KEY PLAYERS - GLOSSARY

Lisbon Treaty: The fundamental rules and institutions of the EU are set out in treaties agreed among the EU Member States. The Lisbon Treaty is the most recent treaty and entered into force on December 1, 2009. The Lisbon Treaty extends the use of the “ordinary legislative procedure” (co-decision) to agriculture and fisheries where before proposals in these areas were adopted by the Council only and published as “Council Regulations”. The Lisbon Treaty also sets out new rules for the application of provisions set out in basic legal acts (delegated acts/implementing acts).

Framework Legislation: Framework legislation means basic legal acts. The standard EU procedure to adopt framework legislation or to amend basic legal acts is the “ordinary legislative procedure” also known as co-decision. Rules for the application of provisions set out in framework legislation are adopted as separate acts.

Ordinary Legislative Procedure (co-decision): Article 249 of the Lisbon Treaty sets out the “ordinary legislative procedure” usually referred to as “co-decision”. Under this procedure the Council (of EU Member States) and the European Parliament share legislative power. Both institutions act on a Commission proposal. The European Commission has the sole right of legislative initiative. Framework regulations adopted under this procedure are called “European Parliament and Council Regulations” to indicate that both legislators agreed on the Commission proposal.

Delegated Act: This is a novel concept introduced by Article 290 of the Lisbon Treaty to delegate power to the European Commission to adopt rules to supplement or amend non-essential elements of framework legislation. On a case-by-case basis, the Council and the European Parliament set out the conditions (objectives, content, scope, duration) for this delegation of power to the European Commission. The Council and/or the European Parliament can veto Commission proposals for delegated acts. Delegated acts are published as “Commission Delegated Regulations/Decisions”.

Implementing Act: Implementing Acts are measures of general or individual scope (e.g. authorization of GMOs) to apply provisions set out in framework legislation. Implementing Acts are adopted under the “examination procedure” set out in Regulation 182/2011. This regulation partially repeals the pre-Lisbon “Comitology” Decision 1999/468. Implementing Acts are published as “Commission Implementing Regulations/Decisions”.

Comitology: “Comitology” is EU jargon referring to the system of committees composed of Member State experts who deliver an opinion on Commission proposals for the application of provisions set out in framework legislation. Before the entry into force of the Lisbon Treaty, comitology procedures were set out in Decision 1999/468. When the Lisbon Treaty introduced the concept of delegated and implementing acts, the Commission was required to draft a proposal to replace Decision 1999/468. Regulation 182/2011 adopted in March 2011 repeals

Decision 1999/468 except for the “regulatory procedure with scrutiny” which remains applicable until all framework legislation has been aligned to the Lisbon Treaty.

Regulatory procedure with scrutiny: This procedure, set out in Decision 1999/468, is pre-Lisbon comitology but will remain in force until all basic legal acts adopted before December 1, 2009, have been aligned to the Lisbon Treaty. This procedure is used to supplement or amend non-essential elements of basic legal acts adopted under co-decision. In this procedure both the Council and the European Parliament can veto a Commission proposal. Even if a comitology committee delivers a positive opinion, the Council and/or the European Parliament can still block the draft measure. Measures adopted under this procedure are published as “Commission Regulations”.

Examination procedure: This procedure is set out in the post-Lisbon comitology Regulation 182/2011. The examination procedure is used to adopt Commission proposals for implementing acts. Under this procedure, the Commission may only adopt a draft measure if the comitology committee delivers a positive opinion. In other cases, the Commission may either propose an amended version of the draft measure or refer the matter to an “Appeal Committee” composed of Member State high level officials. The European Parliament has no active role in this procedure.

Pre-Lisbon: Basic legal acts adopted before December 1, 2009, the entry into force of the Lisbon Treaty, are referred to as pre-Lisbon framework legislation. The “regulatory procedure with scrutiny” is referred to as pre-Lisbon comitology. Once all basic legal acts have been revised to align them to the distinction between delegated and implementing acts introduced by the Lisbon Treaty (at the latest by July 2014) the regulatory procedure with scrutiny will cease to exist.

Post-Lisbon: Basic legal acts adopted after December 1, 2009, the entry into force of the Lisbon Treaty, are referred to as post-Lisbon framework legislation. “Delegated and Implementing Acts” are new concepts introduced by the Lisbon Treaty to adopt measures for the application of provisions set out in framework legislation. Regulation 182/2011 setting out the examination procedure for the adoption of implementing acts is referred to as post-Lisbon comitology.