

Council Decision 87/373/EEC laying down the procedures for the exercise of implementing powers (13 July 1987)

Caption: Council Decision of 13 July 1987, laying down the procedures for the exercise of implementing powers conferred on the Commission.

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Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission (87/373/EEC)

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 Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

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 process, 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 procedures for implementing Commission powers 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 specify 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 procedures 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 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, if necessary by taking a vote.

The opinion shall be recorded in the minutes; 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 account of the opinion delivered by the committee. It shall inform the committee of the 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 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.

Variant (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.

Variant (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. SMONSEN

(¹) OJ No C 70, 25.3.1986, p. 6.

(²) OJ No C 297, 24.11.1986, p. 94.