

EU Law and its different legal instruments: The system of Delegated and Implementing Acts

Workshop

Introduction

Target group:

This practical and interactive workshop targets employees in the Slovak public administration, who will be chairing Council working groups or representing Slovakia as the national representative in such groups. It is also of practical interest to officials, who are involved in other representation of national positions leading to the adoption of EU legal instruments and/or in the transposition of EU law and its administrative application, internal coordination, etc.

Description:

The European Union possesses an autonomous legal system, composed of different legal instruments, which are organised according to their respective rank and legal force. The traditional categories of primary and secondary law contain individual acts peculiar to the EU law: international treaties which perform the function of a constitutional text, legal acts which can adopt a multitude of forms (regulations, directives, decisions, etc.).

Further complexity is found in the category of secondary law acts, divided into legislative and non-legislative (or executive) acts. The traditional system of EU executive measures was re-drawn by the Treaty of Lisbon, which has differentiated them into two fundamental new legal instruments: delegated acts (Article 290 TFEU) and implementing acts (Article 291 TFEU). This new system has impacted heavily on the so-called "Comitology Procedures".

Method:

The seminar follows an interactive methodology, combining presentations, practical examples and illustrations. All sessions include question and answer periods and exchange of experiences.

Objectives:

This workshop provides a practical chart to understand the EU legal system and the different legal instruments. Beyond the pure description, the workshop will analyse these different instruments, commenting upon when to include one or the other into an EU legislative act under preparation and how their different legal force can affect administration officials in the performance of their administrative tasks and work (in terms of transposition, practical application, etc.)

More specifically, the seminar aims at providing participants with the knowledge to understand the respective concept of delegated and implementing acts. By means of practical examples, it will illustrate the purpose of each explaining in which situation the EU legislator will opt for one or the other. Finally, the seminar will analyse how the procedures leading to their adoption work.

Expert trainers:

Juan Diego Ramírez-Cárdenas Díaz, Senior Lecturer, European Centre for Judges and Lawyers, EIPA Luxembourg (LU) *JUDr. Zuzana Štefanková*, PhD

Programme

Date and venue:

10 - 11 November 2015

Training premises of AINova, Prostredná 64, Svätý Jur (www.ainova.sk/sk/kontakt/)

DAY 1

08.30 **Registration of participants**

09.00 **Welcome and introduction to the workshop**

PART I - Presentation of the EU legal framework.
Overall classification of EU legal acts

09.15 **Primary law of the EU: EU treaties and the general principles of EU law**

EU primary law is composed by the founding treaties and latter modifications, for they compose the constitutional structure upon which the EU is based. The category of primary law is completed by various principles of law, which are characteristic to the EU: subsidiarity, proportionality, non-discrimination, etc. An analysis of these elements is essential for any national administration, for it is primary law which determines the distribution of competences between EU and Member States and defines the impact that EU actions and policies upon domestic measures and the degree of autonomy left to Member States to pursue individual policy objective.

10.30 Coffee break

11.00 **Sources of secondary EU law. Focus on legislative acts: regulations, directives and decisions. Reference to non-binding acts: recommendation, opinions and other atypical acts**

EU secondary law is divided into two different categories: legislative and non-legislative acts. This session will focus on the first category (legislative acts) on any of its three manifestations: regulations, directives and decisions. This session will enable participants to understand how the particular features of these acts influence their negotiation at EU level and drafting. In addition, their respective impact on national legal orders in terms of harmonisation of national measures, administrative enforcement, etc. will be analysed. This session is completed with a reference to non-binding instruments of the EU.

12.30 Lunch

PART II - The EU System of Delegated and Implementing Acts

14.00 **Delegated and Implementing Acts: concept - purpose - legal force**

This session will present, by means of examples, the situations where the adoption of an executive (or non-legislative) measure is required and will examine the purposes these measures may serve. This session will also make a clear differentiation between the two type of executive measures that Lisbon has created (delegated and

implementing acts) and place them within the system of hierarchy of norms of the EU; finally, it will be illustrated when is best to use each of these instruments.

15.30 Coffee break

16.00 **Workshop: analysing legal acts**

Participants will be requested to recognise different EU legal instruments and identify relevant provisions and contents determining duties and obligations upon those to whom these acts are addressed, deadlines or transposition periods.

17.30 End of Day 1

DAY 2

PART III – Procedures for adoption of Delegated and Implementing Acts. **A practical guide**

09.00 **Procedure for the Adoption of Delegated Acts**

After a short account on how Comitology procedures operated in the past, it will be explained how delegated acts are currently adopted. This mechanism is established in broad terms in Art. 290 TFEU, which establishes a system of direct control by the Council and the European Parliament over the action of the Commission. This session will also refer to the pragmatic understanding of these three institutions have achieved on the operation of this procedure

10.00 **Procedure of Adoption of Implementing Acts**

The former Comitology committees still persist exerting a direct control over the Commission when the latter has been empowered to adopt implementing acts. The new Comitology procedures as established by Regulation 1882/2011 will be examined, analysing the political and legal consequences in the use of each of these two procedures

11.00 Coffee break

11.30 **Practical guide for Council Working Parties' Chairs: tips and recommendations for the negotiation and adoption of the delegated and implementing acts**

In this last session, the above procedures will be examined from the point of view of a Council Working Party Chair. Recommendations on how to steer and chair meetings (where the extent of the executive power to be awarded to the Commission is debated or where proposals for delegated and implementing acts are examined) will be given. It will also comment upon the inter-institutional contacts and relations to be established with delegates of both European Parliament and the Commission throughout the procedure.

12.30 **Conclusions and Evaluation**

13.00 **END OF THE SEMINAR**