

DECISIONS

COMMISSION DECISION

of 24 February 2010

amending its Rules of Procedure

(2010/138/EU, Euratom)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 249 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

HAS ADOPTED THIS DECISION:

Article 1

Articles 1 to 29 of the Rules of Procedure of the Commission ⁽¹⁾ shall be replaced by the text in the Annex to this Decision.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Article 3

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 24 February 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 308, 8.12.2000, p. 26.

ANNEX

CHAPTER I

THE COMMISSION

Article 1

The principle of collective responsibility

The Commission shall act collectively in accordance with these Rules of Procedure and in compliance with the priorities which it has set in the context of the political guidelines laid down by the President in accordance with Article 17(6) TEU.

Article 2

Political guidelines, priorities, work programme and budget

In compliance with the political guidelines laid down by the President, the Commission shall establish its priorities and reflect them in its work programme and the draft budget which it shall adopt each year.

Article 3

The President

1. The President shall lay down the political guidelines within which the Commission shall exercise its functions ⁽¹⁾. The President shall steer the work of the Commission in order to ensure it is carried out.

2. The President shall decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body ⁽²⁾.

Without prejudice to Article 18(4) TEU, the President shall assign to Members of the Commission special fields of activity with regard to which they are specifically responsible for the preparation of Commission work and the implementation of its decisions ⁽³⁾.

The President may ask Members of the Commission to carry out specific tasks with a view to ensuring that the political guidelines that he has laid down and the priorities set by the Commission are implemented.

He may change these assignments at any time ⁽⁴⁾.

The Members of the Commission shall carry out the duties devolved to them by the President under his authority ⁽⁵⁾.

3. The President shall appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the Members of the Commission ⁽⁶⁾, and shall draw up the order of precedence within the Commission.

4. The President may set up groups of Members of the Commission, designating their chairpersons, setting their mandate and operating procedures, and deciding on their membership and term.

5. The President shall represent the Commission. He shall designate the Members of the Commission to assist him in this task.

6. Without prejudice to Article 18(1) TEU, a member of the Commission shall resign if the President so requests ⁽⁷⁾.

Article 4

Decision-making procedures

Commission decisions shall be taken:

(a) at Commission meetings by oral procedure in accordance with Article 8 of these Rules of Procedure; or

(b) by written procedure in accordance with Article 12 of these Rules of Procedure; or

⁽¹⁾ Article 17(6)(a) of the Treaty on European Union.

⁽²⁾ Article 17(6)(b) of the Treaty on European Union.

⁽³⁾ Article 248 of the Treaty on the Functioning of the European Union.

⁽⁴⁾ See footnote 3.

⁽⁵⁾ See footnote 3.

⁽⁶⁾ Article 17(6)(c) of the Treaty on European Union.

⁽⁷⁾ Article 17(6), second subparagraph, of the Treaty on European Union.

(c) by empowerment procedure in accordance with Article 13 of these Rules of Procedure; or

(d) by delegation procedure in accordance with Article 14 of these Rules of Procedure.

SECTION 1

Commission meetings

Article 5

Convening Commission meetings

1. Meetings of the Commission shall be convened by the President.
2. The Commission shall, as a general rule, meet at least once a week. It shall hold additional meetings whenever necessary.
3. Members of the Commission shall be required to attend all meetings. If a Member of the Commission is unable to attend a meeting, they shall inform the President in good time of the reasons for their absence. The President shall judge whether Members may be released from these requirements in certain circumstances.

Article 6

Agenda of Commission meetings

1. The President shall adopt the agenda of each Commission meeting.
2. Without prejudice to the prerogative of the President to adopt the agenda, any proposal involving significant expenditure must be presented in agreement with the Member of the Commission responsible for the budget.
3. If a Member of the Commission proposes the inclusion of an item on the agenda, the President must be notified as prescribed by the Commission in the implementing rules referred to in Article 28 of these Rules of Procedure, hereinafter referred to as "the implementing rules".
4. The agenda and the necessary documents shall be circulated to the Members of the Commission as prescribed in accordance with the implementing rules.
5. The Commission may, on a proposal from the President, discuss any question which is not on the agenda or for which the necessary documents have been distributed late.

Article 7

Quorum

The number of Members whose presence is necessary to constitute a quorum shall be equal to a majority of the number of Members specified in the Treaty.

Article 8

Decision-making

1. The Commission shall take decisions on the basis of proposals from one or more of its Members.
2. A vote shall be taken if any Member so requests. The vote may be on the original draft text or on an amended draft text by the Member or Members responsible for the initiative or by the President.
3. Commission decisions shall be adopted if a majority of the number of Members specified in the Treaty vote in favour.
4. The President shall formally note the outcome of discussions, which shall be recorded in the minutes of the meeting provided for in Article 11 of these Rules of Procedure.

Article 9

Confidentiality

Meetings of the Commission shall not be public. Discussions shall be confidential.

*Article 10***Attendance of officials or other persons**

1. Unless the Commission decides otherwise, the Secretary-General and the President's Head of Cabinet shall attend meetings. The circumstances in which other persons may attend Commission meetings shall be determined in accordance with the implementing rules.
2. In the absence of a Member of the Commission, his Head of Cabinet may attend the meeting and, at the invitation of the President, state the views of the absent Member.
3. The Commission may decide to hear any other person.

*Article 11***Minutes**

1. Minutes shall be taken of all meetings of the Commission.
2. The draft minutes shall be submitted to the Commission for approval at a subsequent meeting. The approved minutes shall be authenticated by the signatures of the President and the Secretary-General.

*SECTION 2***Other decision-making procedures***Article 12***Decisions taken by written procedure**

1. The agreement of the Members of the Commission to a draft text from one or more of its Members may be obtained by means of written procedure, provided that the approval of the Legal Service and the agreement of the departments consulted in accordance with Article 23 of these Rules of Procedure has been obtained.

Such approval and/or agreement may be replaced by an agreement between the Members of the Commission where a meeting of the College has decided, on a proposal from the President, to open a finalisation written procedure as provided for in the implementing rules.

2. For this purpose, the draft text shall be circulated in writing to all Members of the Commission as laid down by it in accordance with the implementing rules, with a time limit within which Members must make known any reservations they may have or amendments they wish to make.
3. Any Member of the Commission may, in the course of the written procedure, request that the draft text be discussed. He shall send a reasoned request to that effect to the President.
4. A draft text on which no Member has made and maintained a request for suspension up to the time limit set for the written procedure shall stand adopted by the Commission.

*Article 13***Decision taken by empowerment procedure**

1. The Commission may, provided the principle of collective responsibility is fully respected, empower one or more of its Members to take management or administrative measures on its behalf and subject to such restrictions and conditions as it shall impose.
2. The Commission may also instruct one or more of its Members to adopt, with the agreement of the President, the definitive text of any instrument or of any proposal to be presented to the other institutions, the substance of which has already been determined in discussion.
3. Powers conferred in this way may be subdelegated to the Directors-General and Heads of Department unless this is expressly prohibited in the empowering decision.
4. The provisions of paragraphs 1, 2 and 3 shall be without prejudice to the rules concerning delegation in respect of financial matters or the powers conferred on the appointing authority and the authority empowered to conclude contracts of employment.

*Article 14***Decisions taken by delegation procedure**

The Commission may, provided the principle of collective responsibility is fully respected, delegate the adoption of management or administrative measures to the Directors-General and Heads of Department, acting on its behalf and subject to such restrictions and conditions as it shall impose.

*Article 15***Subdelegation for individual decisions awarding grants and contracts**

The Director-General or Head of Department who has received delegated or subdelegated powers under Articles 13 and 14 for the adoption of financing decisions may decide to subdelegate certain decisions selecting projects and certain individual decisions awarding grants and public procurement contracts to the competent Director or, in agreement with the Member of the Commission responsible, to the competent Head of Unit, subject to the restrictions and conditions laid down in the implementing rules.

*Article 16***Information concerning decisions adopted**

Decisions adopted by written procedure, empowerment procedure or delegation procedure shall be recorded in a day note or week note which shall be recorded in the minutes of the next Commission meeting.

SECTION 3

Provisions common to all decision-making procedures*Article 17***Authentication of instruments adopted by the Commission**

1. Instruments adopted by the Commission in the course of a meeting, in the authentic language or languages, shall be attached to a summary note prepared during the meeting at which they were adopted in such a way that they cannot be separated from it. They shall be authenticated by the signatures of the President and the Secretary-General on the last page of the summary note.

2. The non-legislative instruments of the Commission referred to in Article 297(2) TFEU and adopted by written procedure shall be authenticated by the signatures of the President and the Secretary-General on the last page of the summary note referred to in the preceding paragraph, unless these instruments must be published and enter into force before the date of the next meeting of the Commission. For the purposes of authentication, copies of the day notes referred to in Article 16 of these Rules of Procedure shall be attached to the summary note referred to in the preceding paragraph in such a way that they cannot be separated from it.

The other instruments adopted by written procedure and the instruments adopted by empowerment procedure in accordance with Article 12, Article 13(1) and (2) of these Rules of Procedure shall be attached, in the authentic language or languages, to the day note referred to in Article 16 of these Rules of Procedure in such a way that they cannot be separated from it. They shall be authenticated by the signature of the Secretary-General on the last page of the day note.

3. Instruments adopted by delegation procedure or by subdelegation shall be attached in the authentic language or languages, in such a way that they cannot be separated, by the computer application provided for that purpose, to the day note referred to in Article 16 of these Rules of Procedure. They shall be authenticated by a certifying statement signed by the official to whom the powers have been delegated or subdelegated in accordance with Article 13(3), Articles 14 and 15 of these Rules of Procedure.

4. For the purposes of these Rules of Procedure, "instrument" means any instrument referred to in Article 288 TFEU.

5. For the purposes of these Rules of Procedure, "authentic language or languages" means the official languages of the European Union, without prejudice to the application of Council Regulation (EC) No 920/2005⁽⁸⁾, in the case of instruments of general application, and the language or languages of those to whom they are addressed, in other cases.

⁽⁸⁾ OJ L 156, 18.6.2005, p. 3.

SECTION 4

Preparation and implementation of Commission decisions

Article 18

Groups of Members of the Commission

Groups of Members of the Commission shall contribute to the coordination and preparation of the work of the Commission in accordance with the political guidelines and mandate laid down by the President.

Article 19

Members' cabinets and relations with departments

1. Members of the Commission shall have their own cabinet to assist them in their work and in preparing Commission decisions. The rules governing the composition and operation of the cabinets shall be laid down by the President.

2. In compliance with the principles laid down by the President, Members of the Commission shall approve their working arrangements with the departments for which they are responsible. In particular, these arrangements must specify the way in which Members of the Commission give instructions to the departments concerned, which will regularly provide them with all the information on their area of activity necessary for them to exercise their responsibilities.

Article 20

The Secretary-General

1. The Secretary-General shall assist the President so that, in the context of the political guidelines laid down by the President, the Commission achieves the priorities that it has set.

2. The Secretary-General shall also help to ensure political consistency by organising the necessary coordination between departments at the start of the preparatory stages, in accordance, *inter alia*, with Article 23 of these Rules of Procedure.

He shall see that documents submitted to the Commission are of good quality in terms of substance and comply with the rules as to form and, in this context, shall help to ensure that they are consistent with the principles of subsidiarity and proportionality, external obligations, interinstitutional considerations and the Commission's communication strategy.

3. The Secretary-General shall assist the President in preparing the proceedings and conducting the meetings of the Commission.

He shall also assist the Members chairing groups of Members set up under Article 3(4) of these Rules of Procedure in preparing and conducting their meetings. He shall provide the secretariat of these groups.

4. The Secretary-General shall ensure that decision-making procedures are properly implemented and that effect is given to the decisions referred to in Article 4 of these Rules of Procedure.

In particular, except in specific cases, he shall take the necessary steps to ensure that Commission instruments are officially notified to those concerned and are published in the *Official Journal of the European Union* and that documents of the Commission and its departments are transmitted to the other institutions of the European Union and to the national parliaments.

He shall be responsible for distributing written information that the Members of the Commission wish to circulate within the Commission.

5. The Secretary-General shall be responsible for official relations with the other institutions of the European Union, subject to any decisions by the Commission to exercise any function itself or to assign it to its Members or departments.

In this context, he shall help to ensure overall consistency by providing coordination between departments during procedures involving other institutions.

6. The Secretary-General shall ensure that appropriate information is given to the Commission concerning the progress made on internal and interinstitutional procedures.

CHAPTER II

COMMISSION DEPARTMENTS

*Article 21***Structure of departments**

The Commission shall establish a number of Directorates-General and equivalent departments forming a single administrative service to assist it in the preparation and performance of its tasks, and in the implementation of its priorities and the political guidelines laid down by the President.

The Directorates-General and equivalent departments shall normally be divided into directorates, and directorates into units.

*Article 22***Creation of specific functions and structures**

In special cases the President may set up specific functions or structures to deal with particular matters and shall determine their responsibilities and method of operation.

*Article 23***Cooperation and coordination between departments**

1. In order to ensure the effectiveness of Commission action, departments shall work in close cooperation and in coordinated fashion from the outset in the preparation and implementation of Commission decisions.

2. The department responsible for preparing an initiative shall ensure from the beginning of the preparatory work that there is effective coordination between all the departments with a legitimate interest in the initiative by virtue of their powers or responsibilities or the nature of the subject.

3. Before a document is submitted to the Commission, the department responsible shall, in accordance with the implementing rules, consult the departments with a legitimate interest in the draft text in sufficient time.

4. The Legal Service shall be consulted on all drafts or proposals for legal instruments and on all documents which may have legal implications.

The Legal Service must always be consulted before initiating any of the decision-making procedures provided for in Articles 12, 13 and 14 of these Rules of Procedure, except for decisions concerning standard instruments where its agreement has already been secured (repetitive instruments). Such consultation is not required for the decisions referred to in Article 15 of these Rules of Procedure.

5. The Secretariat-General shall be consulted on all initiatives which:

- are subject to approval by oral procedure, without prejudice to personnel questions concerning individual members of staff, or
- are of political importance, or
- are part of the Commission's annual work programme or the programming instrument in force, or
- concern institutional issues, or
- are subject to impact assessment or public consultation,

and for any joint position or initiative that may commit the Commission vis-à-vis other institutions or bodies.

6. With the exception of the decisions referred to in Article 15 of these Rules of Procedure, the Directorate-General responsible for the budget and the Directorate-General responsible for human resources and security shall be consulted on all documents which may have implications for the budget and finances or for personnel and administration respectively. The department responsible for combating fraud shall likewise be consulted where necessary.

7. The department responsible shall endeavour to frame a proposal that has the agreement of the departments consulted. In the event of a disagreement it shall append to its proposal the differing views expressed by these departments, without prejudice to Article 12 of these Rules of Procedure.

CHAPTER III

DEPUTISING

Article 24

Continuity of service

The Members of the Commission and the departments shall ensure they take all appropriate measures to ensure continuity of service, in compliance with the provisions adopted for that purpose by the Commission or the President.

Article 25

Deputising for the President

Where the President is prevented from exercising his functions, they shall be exercised by one of the Vice-Presidents or Members in the order laid down by the President.

Article 26

Deputising for the Secretary-General

Where the Secretary-General is prevented from exercising his functions, or where the post is vacant, they shall be exercised by the Deputy Secretary-General present with the highest grade or, in the event of equal grade, by the Deputy Secretary-General with the greatest seniority in the grade or, in the event of equal seniority, by the eldest or by an official designated by the Commission.

If there is no Deputy Secretary-General present and no official has been designated by the Commission, the subordinate official present in the highest function group with the highest grade or, in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

Article 27

Deputising for hierarchical superiors

1. Where a Director-General is prevented from exercising his functions, or where the post is vacant, they shall be exercised by the Deputy Director-General present with the highest grade or, in the event of equal grade, by the Deputy Director-General with the greatest seniority within the grade or, in the event of equal seniority, by the eldest or by an official designated by the Commission.

If there is no Deputy Director-General present and no official has been designated by the Commission, the subordinate official present in the highest function group with the highest grade or, in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

2. Where a Head of Unit is prevented from exercising his functions, or where the post is vacant, they shall be exercised by the Deputy Head of Unit or an official designated by the Director-General.

If there is no Deputy Head of Unit present and no official has been designated by the Commission, the subordinate official present in the highest function group with the highest grade or, in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

3. Where any other hierarchical superior is prevented from exercising his duties, or where the post is vacant, the Director-General shall designate an official in agreement with the Member of the Commission responsible. If no replacement has been designated, the subordinate official present in the highest function group with the highest grade, or in the event of equal grade, the subordinate official with the greatest seniority in the grade or, in the event of equal seniority, the one who is eldest, shall deputise.

CHAPTER IV

FINAL PROVISIONS

Article 28

The Commission shall, as necessary, lay down implementing rules to give effect to these Rules of Procedure.

The Commission may adopt supplementary measures relating to the functioning of the Commission and of its departments, taking into account developments in technology and information technology.

Article 29

These Rules of Procedure shall enter into force on the day following their publication in the *Official Journal of the European Union*.
