

European Commission initiatives to promote the general interest of the European Union

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Abstract

Each institution of the Union has an interest in it. In this context, the Commission is also namely, that of the Union, initially of the European Communities, thereby explaining – and is pronounced supranational character of the institution. Representing the Union's general interest is reflected by Treaties. This paper presents the Commission's initiatives appropriate its functions to support the Union's general interest.

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1. Introduction

The Commission shall promote the general interest of the Union and take appropriate initiatives to that end, according to art. 17 para. 1 of the Treaty on European Union (TEU). As shown each EU institution representing an interest in it, therefore the Commission representing the interests of the Union of Communities initially, thereby explaining and pronounced supranational character of this institution since its establishment.

Representing the Union's general interest is expressed by the fact that:

- a. ensure the application of the Treaties and of measures adopted by the institutions pursuant to them (depending on design);
- b. oversee the application of Union law under the control of the Court of Justice of the European Union (in her capacity as guardian of the Treaties);
- c. execute the budget and manage programs;
- d. exercise coordinating, executive and management functions, in accordance with the terms of the treaties;
- e. ensure the external representation of the Union, except the Common Foreign and Security Policy (CFSP);
- f. shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

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2. Ensures implementation of Treaties and of measures adopted by the institutions pursuant to them³

In principle, Member States shall take the measures of national law necessary to implement legally binding acts of the Union's legal, but if the required uniform conditions for implementing them, those acts shall confer implementing powers (art. 290 par. 1, 2 of the Treaty on the Functioning of the European Union [TFEU]).

Regarding the exercise of implementing powers of the Commission it is controlled by the Member States by regulations of the EP and the Council in accordance with the ordinary legislative procedure, laying down in advance the rules and general principles of control mechanisms (art. 291 par. 3 TFEU, the general rules). We exemplify this:

- Art. 105 TFEU, the Commission shall ensure the application of the principles laid down in art. 101 and 102 TFEU, concerning the principles governing competition policy;
- Art. 106 TFEU, the Commission shall ensure the application of art. 106 TFEU, and addressed to the Member States, where necessary, appropriate directives and decisions (provisions relating to undertakings entrusted with the operation of services of general economic interest).

3. It shall oversee the application of Union law under the control of the Court of Justice of the European Union⁴

This task defines the quality of the Commission to be "guardian of the treaties".

Safeguarding the interests of the Union, the Commission shall ensure the observance of treaties and acts of the institutions, by individuals (natural or legal), Member States and even institutions.

Duties of guardian of the Treaties translate into⁵:

- Power of information and prevention;
- Power control and tracking failure Union law and, ultimately, requires;
- The power to manage the safeguard clauses.

Law Commission to inform corresponding obligation for Member States to adopt any general or particular, to ensure fulfillment of the obligations arising out of the Treaties or resulting from the acts of the EU institutions. In this respect Member States:

- Facilitate the achievement of the Union's tasks;
- Refrain from any measure which could jeopardize the attainment of the Union's objectives (referred to in art. 4 par 3 TEU), and

³ See Ioana Nely Militaru, *Dreptul Uniunii Europene*, Legal Universe Publishing, second edition, Bucharest, 2011, p. 249

⁴ See Ioana Nely Militaru, *op. cit.*, p. 250

⁵ See Guy Isaac, Marc Blanquet, *Droit communautaire general*, 8ed, Dalloz, Paris, 2001, p. 61.

- Fulfill the obligations under the special provisions, for example: art. 108 par. 1 TFEU, 114 para. 4 the TFEU, 121 para. 3 TFEU.

Law Commission to inform results from acts of the institutions - especially those directives which contain a clause which requires the Member State to notify the Commission of the measures they intend to take to comply with the Directive. This power of information and verification aimed at both individuals and legal entities, for example art. 337 TFEU, which states that "In order to fulfill the tasks entrusted to it, the Commission may request and receive information and carry out all necessary checks within the limits and conditions set by the Council, acting by a simple majority in accordance with the Treaties".

Under the power of prevention that has the Commission is empowered to draw attention in particular Member States on the risks of crimes against them having overall responsibility expressed through recommendations and advice to them.

- If is necessary, the Commission has the power to control, failure to follow EU legislation (primary law and secondary law) and enforce that law, to comply with it by individuals, Member States and institutions (Union)⁶.

Union law violations committed by individuals (natural persons, legal persons) are monitored and sanctioned in principle by the national authorities, but the Commission may impose penalties itself particularly in the areas of competition⁷ and transport - areas in which the Commission may impose fines and penalties, or in terms of screening, based TEuratom⁸.

Compared to the Member States the Commission has powers of control over the specific procedures required by Articles 96, 106 par. 3 and 108 TFEU, under art. 258 TFEU and 141 TEuratom (Article 258 TFEU Alike), being able to refer to the Court of Justice, after attending a pre-litigation procedure, which is able to non-compliance by Member States of obligations under the treaties.

To institutions, the Commission may initiate legal action when they consider their acts violate EU law as a legal action (art. 265 TFEU, Art. 263 TFEU) and about the advisory from the Court of Justice (art. 218 par. 11 TFEU).

- -Of the Commission to manage the safeguard clauses. This right is to enable the Commission to authorize, in specific instances, measures derogating from the provisions of the Treaties.

We exemplify this:

- In the capital and payments, only the Commission proposal and after consulting the ECB, the Council may, in relation to third countries, safeguard measures for a period of up to six months if such measures are strictly necessary (art. 66 TFEU);

⁶ Popescu-Cruceru Anca, Leuciuc Eugenia Gabriela, Bănulescu Viorel, *The Role of Economical Concentrations in the Contemporary Competitive Equation*, „International Journal of Advances in Management and Economics”, www.managementjournal.info, Sep.-Oct. 2012, Vol. 1, Issue 5, pp. 95-98.

⁷ In such sense, Bănulescu Viorel, Popescu-Cruceru Anca, Leuciuc Eugenia Gabriela, *Control of mergers and Defence of Enterprises during Financial Crisis*, „Romanian Statistical Review” - supliment, trim. III/2012, pp. 15-19

⁸ See Guy Isaac, Marc Blanquet, *op. cit.*, p. 62.

- The harmonization of laws, the Commission considering whether a particular public health problem that has been subject to harmonization measures, proposing appropriate measures to the Council. These measures may include a safeguard clause (art. 114 par. 8, 9, 10, TFEU);

- In economic and monetary policy, if the Council did not grant mutual assistance recommended by the Commission or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorize the Member State with a derogation is in difficulties to take measures safeguard the conditions and rules defines them (art. 143 par. 3 TFEU). Also, if a sudden crisis in the balance of payments, a Member State with a derogation may adopt provisional safeguard measures required.

Recommendation from the Commission and after consulting the Economic and Financial Committee, the Council may decide that the Member State concerned shall amend, suspend or abolish the protective measures referred (art. 144 par. 1, 3 TFEU).

4. The Commission shall implement the budget and manage programs⁹

Commission shall implement the budget of the European Union.

The draft budget is based preparation before July 1 of each year by each institution, except ECB, a situation estimates of its expenditure for the following financial year.

The Commission shall consolidate these estimates in a draft budget which may contain different estimates. This project includes revenues and expenditures.

According to art. 314 par. 2 TFEU, the Commission proposes to September 1 of each year the draft budget, which it presents to the European Parliament and the Council.

The Commission may amend the draft budget during the procedure to convene a conciliation committee, which has the task of reaching based on the positions of the European Parliament and of the Council agreement on a joint (art. 314 par. 3 and 5 TFEU).

Commission takes part in the conciliation proceedings and shall take all necessary initiatives to reconciling the positions of the European Parliament and the Council.

The budget will be adopted by the Council with the European Parliament according to procedures established by art. 314 par. 4-9 TFEU, in which, if the joint is rejected, it is entitled to submit a new draft budget.

Upon termination procedure, European Parliament President declare that the budget has been finally adopted (art. 314 par. 9 TFEU).

Once adopted, the Commission together with the Member States implement the budget¹⁰ in accordance with regulations adopted¹¹, within the limits

⁹ See Ioana Nely Militaru, *op. cit.*, p. 253.

¹⁰ Budget shall be implemented according to the provisions of regulations adopted pursuant to art. 317 TFEU.

of the appropriations and funds allocated according to the principle of sound financial management (art. 317 par. 1 TEC). In order to use the credit under the principle of sound financial management, Member States shall cooperate with the Commission.

Within the budget, the Commission may transfer appropriations or from one chapter to another or from one subdivision to another, under the regulations made under Art. 322 TFEU.

The Commission shall submit annually to the European Parliament and the Council the accounts year ended. It also communicate to a financial statement of the assets and liabilities of the Union (Art. 318 para. 1 TFEU).

Also, to the European Parliament and the Council a report evaluating the Union's finances.

Although structural funds related to the EU budget, how they are spent is based on a division of responsibilities between the Commission and Member State governments, as follows:

- The Commission negotiates and approves the development programs proposed by the Member States and allocates credits;
- States and their regions manage the programs, ensuring their application and select the projects they control and evaluate;
- The Commission participates in program monitoring, commits and pays expenses certificates and verifies the control systems in place. For each operational program, the Member State means:
 - a) a management authority (public authority or public body or national, regional or local managing operational program);
 - b) a certification authority (authority or public body national, regional or local certifying statement of expenditure and applications for payment before they are sent to the Commission);
 - c) an audit authority (authority or public body national, regional or local level designated for each operational program and responsible for verifying the effective functioning of the management and control).

5. It shall exercise coordinating, executive and management functions, in accordance with the terms of treaties¹²

In order to ensure closer coordination of economic policies, the Commission shall report to the Council that monitor economic developments in each of the Member States and the Union, and the consistency of economic policies with the broad guidelines (art. 121 par. 3 TFEU).

The Commission also encourages cooperation between Member States and facilitate the coordination of their action in all social policy fields. To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations (Art. 156 TFEU).

¹¹ Regulations are adopted pursuant to art. 322 TFEU.

¹² See Ioana Nely Militaru, *op. cit.*, p. 250.

In most areas covered by the Treaty Commission may take any initiative to promote coordination between actions of the Union and those of the Member States. These areas are: public health (art. 168 par. 2 para. 2 TFEU), industry (art. 173 para. 2 TFEU), research, technological development and space (Art. 181 para. 2 TFEU), development cooperation (art. 210 para. 2 TFEU), humanitarian aid (Art. 214 para. 6 TFEU).

Regarding enforcement tool, TFEU contains a general provision in this regard in art. 291 par. 2 TFEU, according to which "if necessary uniform conditions for implementing binding acts of the Union legally those acts shall confer implementing powers on the Commission." This statement is filled with special provisions that expressly provide concrete cases in which the Commission is competent for execution, for example: art. 105 TFEU, art. 154 TFEU etc.

In the process of implementing EU legal acts imposed since 1960 comitology¹³, respectively, the practice of using committees. To monitor how the Commission exercises its executive, the Council created three types of committees composed of national experts: advisory committee, management committee and regulatory committee. They may, in some cases, their negative vote, withdraw the Commission the right decision to return to the Council. This procedure was considered by the ECJ, as complying with treaties institution does not change as long as the institutional balance. Thus are the term "comitology" designating the Community language, practice committees in the execution¹⁴. Procedural rules regarding the exercise of the powers conferred on the Commission by the Council have been established by Council decisions, which set the modalities for the exercise of implementing powers conferred on the Commission. "Comitology spawned over the years of political disputes between the Council and Parliament, who had expressed concern about disrupting the inter-institutional balance by excluding Parliament of procedures implementing rules adopted by the Council.

Practice "comitology" was replaced by the Treaty of Lisbon, with the "delegated acts", according to which Commission shall be empowered to adopt non-legislative general application to supplement or amend certain non-essential elements of the legislative act (art. 290 par. 1 TFEU).

Lisbon Treaty opens "a new era" for delegated acts and implementing acts. According to him, the powers delegated to the Commission will be subject to special conditions and limits and control mechanisms and supervision¹⁵. Objectives, content and duration of the delegation of each case must be defined "in a specifically and meticulously" every act (regulation, directive and decision).

An example in this respect for the Commission to submit proposals for working out and implementing the common agricultural policy, including the

¹³ The term "comitology" illustrates how the Commission exercises its powers which were conferred by the EU legislature composed of representatives of the Member States. See in this regard, Ioana Nely Militaru, *European Union law, op. cit.*

¹⁴ Advisory Committee may make recommendations to the Commission only without thereby be obliged to take them into account. The Committee may suspend the execution measures taken by the Commission and the Council for decisions ends the file.

¹⁵ *Idem*

replacement of the national organizations by one of the forms of common organization provided for by art. 40 TFEU and the implementation of special measures under the Treaty (art. 43 par. 1 TFEU)

Regarding the management function of the Commission, it shall be exercised on the European Social Fund set up to improve employment opportunities for workers in the internal market and to contribute to raising their standard of living (art. 162 and 163 TFEU). In this task the Commission is assisted by a committee chaired by a member of the Commission and composed of representatives of governments and labor organizations (Art. 163 para. 2 TFEU).

6. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements¹⁶

To this end, the Commission shall prepare a work program, which is contributing to the Union's annual and multiannual programming. European Parliament already cooperating with the Commission in developing its work program and shall take account of the priorities expressed by the Parliament at this stage. Following its adoption by the Commission, provided a triologue between Parliament, Council and Commission to reach an agreement on scheduling Union.

Annex XIV of the Rules of Procedure (Framework Agreement on relations between the European Parliament and the European Commission) states in this regard, detailed provisions, including a calendar. Parliament adopted a resolution on the annual programming. President calls on the Council to give its opinion on the Commission's work program and resolution. If an institution is unable to comply with the timetable set, it is required to notify the other institutions of the reasons for the delay and to propose a new calendar.

Exemplified in this policy "Research and technological development and space" on the Commission, at the beginning of each year, submit a report to the European Parliament and the Council, and the work program for the current year (art. 190 TFEU).

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¹⁶ See Ioana Nely Militaru, *op. cit.* p. 254