

# DELEGATED ACTS AND IMPLEMENTING ACTS – NEW LEGAL ACTS OF THE EUROPEAN UNION

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## Abstract

*The Lisbon Treaty has introduced a new generic title – “legal acts” referring to the secondary European Union Law acts (art. 288-289 TFEU), compulsory or not, but also to the new delegated acts and implementing acts.*

*These new acts could be adopted by the European Commission which generally has the legislative initiative power and, in special cases, by the Council, in accordance with the art. 290 TFEU and art. 291 TFEU.*

*It is obvious that new competences are allowed to the European Commission which is in charge with the application and protection of the European Union law on the basis of the art. 17 TEU; the power of the Commission to adopt compulsory acts, even that they are not legislative, could be used in order to increase the enforcement procedures against the Member States which do not respect the European Union law.*

*This new category of legal acts are adopted on the basis of the specific procedure and they could be entitled such as the “classic” secondary EU law acts, namely regulations or directives.*

*In conclusion, this new category of acts could represent an appropriate instrument used by the Commission ensuring the unitary application of the EU law and its respect by the Member States.*

**Keywords:** *Lisbon Treaty, delegated acts, implementing acts, European Commission, compulsory acts, enforcement, Member States.*

## 1. Introduction

The European Union represents a special subject of international law having the features of an international intergovernmental organization with legal personality and, also, some peculiarities that any other organization does not present such as, for example, the direct application of the European Union law and its supremacy in the regard with the national law, the legislative procedure and direct election of the European Parliament by the people of the Member States, the specific compulsory sources of law and the European citizenship<sup>1</sup>.

The European Union objectives are realized by the institutions in the respect of its competences laid down in the treaty in accordance with art. 13. 2 of the Treaty of the European Union (TEU): “Each institution shall act within the limits of the powers conferred on it

in the Treaties, and in conformity with the procedures, conditions and objectives set out in them”. The EU institutions have the role to adopt compulsory rules and specific soft law; the EU legal acts are mentioned in the art.288 Treaty on the functioning of the European Union (TFEU), art.290 TFEU and art.291 TFEU.

## 2. Content

The Lisbon Treaty did introduce the term of “legal acts” defining the legislative acts and the non-legislative acts including the new delegated acts and implementing acts<sup>2</sup>.

The legislative acts are adopted on the basis of the legislative procedure, ordinary or specially, such as regulation, directive and decision<sup>3</sup>; they are compulsory acts for the institutions and Member States.

The new introduced acts increase the power of the European Commission in the regulatory field where

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<sup>1</sup> Augustin Fuerea, „BREXIT – trecut, prezent, viitor – mai multe întrebări și tot atâtea răspunsuri posibile”, *Curierul Judiciar*, 12 (2016): 633. Augustin Fuerea, *Manualul Uniunii Europene*, București: Universul Juridic, 2016, 319: “In this way, at 1st December 2009, a new subject of international law appears, namely the European Union, with all specific prerogatives”.

Oana-Mihaela Salomia, Augustin Mihalache, “Principiul egalității statelor membre în cadrul Uniunii Europene”, *Dreptul*, 1(2016), 167: EU has the features which are specific to an international intergovernmental organization.

<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Aai0032> : „Lisbon Treaty revised the classification of EU legal acts. In the interests of simplification, it reduced from more than 10 to 5 the number of legal acts at the EU institutions’ disposal.

In addition, it enabled the European Commission to adopt a new category of acts: delegated acts. It also strengthened the Commission’s competence to adopt implementing acts. Both these changes sought to improve the effectiveness of EU decision-making and of the implementation of these decisions”.

Report from the Commission to the European Parliament and the Council on the implementation of Regulation (EU) 182/2011 COM (2016) 92 final: „The Lisbon Treaty substantially modified the framework for the conferral of powers upon the Commission by introducing a distinction between delegated and implementing powers”.

Mihaela-Augustina Dumitrașcu, *Dreptul Uniunii Europene și specificitatea acestuia*, C.H. Beck, București, 2015, 168: „a new category of acts placed between the acts solely legislative and solely executive”.

<sup>3</sup> Louis Couton, *Droit de l’Union européenne*, 1re édition, DALLOZ, 2011, 72. The acts adopted by the EU institutions are mentioned in the art. 288 TFEU and the other acts are considered out of nomenclature (hors nomenclature) being adopted by the EU organs or by the institutions which are not mentioned in the art. 288 TFEU.

The ordinary procedure is described by the art. 294 TFEU and supposes three steps: first reading, second reading and conciliation phase.

this institution has only the legislative initiative shared in some cases with the European Parliament, Member States or European Central Bank.

## 2.1 Delegated acts and implementing acts – general description

In conformity with the art.290 TFEU, “a legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act”. It is obvious that this provision from the Treaty does not represent *per se* the legal basis for adopting by the Commission the delegated act and it is mandatory that a legislative act gives to the Commission this specific power; therefore, the European Parliament and the Council preserve the full competence in the legislative field.

This non-legislative delegation is limited in terms of purposes and duration<sup>4</sup> because the Treaty stipulates clearly that “the objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts” and “the essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power”.

If the delegated acts with general application are adopted on the basis of a legislative act, the implementing acts are adopted in accordance with “the legally binding Union acts” which are not defined by the Treaty; if a delegated act represents a legally compulsory act it will be possible that an implementing act could have a delegated act as legal basis<sup>5</sup>.

The implementing acts could be adopted by the Commission in order to ensure the uniform conditions for implementing the legally binding Union acts by the Member States (art. 291 TFEU)<sup>6</sup>; in accordance with art. 4.3 TEU laying down the fundamental “principle of sincere cooperation”, “the Member States shall take any appropriate measure, general or particular, to ensure fulfillment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union”, the lack of such measures giving to the

European Commission the right to start the infringement procedure and propose the enforcement measures through a specific procedure at the Court of Justice of the European Union (art 258-260 TFEU). In this context, it is obvious that “The uniform application of EU law throughout all Member States is essential for the success of the EU. The Commission therefore attaches high importance to ensuring the effective application of EU law. The challenge of applying, implementing and enforcing European Union legislation is shared at EU and Member State level”<sup>7</sup>.

The limits of the Commission’s power to adopt such acts are mentioned in the art. 11 of the Regulation (EU) no 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers: “Where a basic act (a legally binding Union act) is adopted under the ordinary legislative procedure, either the European Parliament or the Council may at any time indicate to the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act. In such a case, the Commission shall review the draft implementing act, taking account of the positions expressed, and shall inform the European Parliament and the Council whether it intends to maintain, amend or withdraw the draft implementing act”.

“In duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union” (on the common foreign and security policy), the Council has the power to adopt implementing acts.

The legislative or non-legislative trait of these acts is not specified by the Treaty, but, it seems that they are non-legislative acts taking into account the following:

- The Council cannot solely adopt legislative acts without the involvement/participation of the European Parliament<sup>8</sup> within the legislative ordinary or specially

<sup>4</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Aai0032>: „The delegation of power to adopt delegated acts is nevertheless subject to strict limits”.

<sup>5</sup> Guy Isaac, Marc Blanquet, *Droit général de l’Union européenne*, 10<sup>e</sup> édition, SIREY, 2012, 303.

<sup>6</sup> See for example the Commission Implementing Regulation (EU) 2015/983 of 24 June 2015 on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council - [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL\\_2015\\_159\\_R\\_0003](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2015_159_R_0003) ; in this case, the legislative act is mentioned within the title itself of the implementing act.

The recital (33) of the Preamble of the Directive 2005/36/CE as amended (see Mihaela-Augustina Dumitraşcu, *Legislația privind libertățile de circulație în Uniunea Europeană*, București: C.H. Beck, 2015, 162) lays down the examination procedure for adopting the implementing act” Due to the technical nature of those implementing acts, the examination procedure should be used for the adoption of implementing acts concerning the introduction of European Professional Cards for particular professions, the format of the European Professional Card, the processing of written applications, the translations to be provided by the applicant to support any application for a European Professional Card....”.

Article 4a.7 of the same Directive mentions in accordance with the art.291 TFEU that “The Commission shall, by means of implementing acts, adopt measures necessary to ensure the uniform application of the provisions on the European Professional Cards for those professions that meet the conditions...”.

In Romania, the authorities in charge with the application of this implementing act are Ministry of National Education, Romanian College for Pharmacists, Romanian Order for Nurses Responsible for General Care, Midwives and Nurses and Ministry of Tourism - [http://europa.eu/youreurope/citizens/work/professional-qualifications/european-professional-card/index\\_en.htm](http://europa.eu/youreurope/citizens/work/professional-qualifications/european-professional-card/index_en.htm) .

<sup>7</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0119\(01\)#ntr7-C\\_2017018EN.01001001-E0007](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0119(01)#ntr7-C_2017018EN.01001001-E0007)

Communication from the Commission EU law: Better results through better application (2017/C 18/02).

<sup>8</sup> Article 289 TFEU.

procedure;

- The European Commission has not the competence to adopt legislative act having only the initiative power;

- In the field of the common foreign and security policy, the “decisions ... shall be taken by the European Council and the Council acting unanimously.... The adoption of legislative acts shall be excluded”.

On the adopting procedure of the delegated and implementing acts, the Treaty lays down specific provisions:

- “Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

- a) the European Parliament or the Council may decide to revoke the delegation;
- b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act<sup>9</sup>.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority”.

- “The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers”; this type of the control exercised by the Member State is not mentioned for the delegated act because the terms of

the delegation are very clearly stipulated by the legislative act which gives that power to the Commission. In this context, it is necessary to mark out the role of the Commission as “Guardian of the Treaties”<sup>10</sup> acting for the EU interests and the status of the Council as institution representing the Member States interests.

### The reform of the comitology procedure

The Regulation (EU) no 182/2011 of the European Parliament and the Council lays down “the rules and general principles concerning mechanisms for control by EU countries of the Commission's exercise of implementing powers”. “This control is performed by means of what is known in EU jargon as ‘comitology’ procedures<sup>11</sup>, i.e. the Commission is assisted by committees consisting of EU countries’ representatives and chaired by a representative of the Commission<sup>12</sup>”.

According with the art. 2 of the this Regulation, „a basic act (a legally binding Union act) may provide for the application of the advisory procedure or the examination procedure, taking into account the nature or the impact of the implementing act required<sup>13</sup>.

The examination procedure<sup>14</sup> applies, in particular, for the adoption of:

- a) implementing acts of general scope;
- b) other implementing acts relating to:
  1. programmes with substantial implications;
  2. the common agricultural and common fisheries policies;

1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article 294.

2. In the specific cases provided for by the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, shall constitute a special legislative procedure.

<sup>9</sup> Dumitrașcu, Dreptul Uniunii Europene și specificitatea acestuia, 176: this right could be considered as a suspensive condition.

<sup>10</sup> <http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00022/The-EP-and-the-treaties>

[http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0119\(01\)#ntr7-C\\_2017018EN.01001001-E0007](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0119(01)#ntr7-C_2017018EN.01001001-E0007)

Communication from the Commission EU law: Better results through better application (2017/C 18/02): “The Commission promotes the general interest of the Union and ensures the application of the Treaties. As guardian of the Treaties, it has the duty to monitor the Member States’ action in implementing EU law and to ensure that their legislation and practice complies with it, under the control of the Court of Justice of the European Union”.

Fuerea, Manualul Uniunii Europene, 160.

<sup>11</sup> Andrew Duff, The logic of the Lisbon Treaty, London: Shoenhorn, , 2009, 57: „Lisbon makes one important improvement to the existing comitology procedure....This is a big step forward for the Parliament and, by implication, a significant step forward for the Commission. It should lead to the rationalization of the burdensome comitology system and encourage the use of „sunset” clauses that would mandate the legislator to review a law after a certain, specified time”/

<sup>12</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Aai0032>

<sup>13</sup> Report from the Commission to the European Parliament and the Council on the implementation of Regulation (EU) 182/2011 COM(2016) 92 final:

Acts adopted under examination procedure		Acts adopted under the advisory procedure
2011	1 311	77
2012	1 591	121
2013	1 579	143
2014	1 437	122

The examination procedure is clearly the procedure applicable in the majority of cases, only about 10% of the opinions are adopted by advisory procedure. This reflects largely the split of management/regulatory versus advisory procedure under the previous regime.

<sup>14</sup> Art. 5 of the Regulation (EU) no 182/2011

1. Where the examination procedure applies, the committee shall deliver its opinion by the majority laid down in Article 16(4) and (5) of the Treaty on European Union and, where applicable, Article 238(3) TFEU, for acts to be adopted 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 those Articles.

2. Where the committee delivers a positive opinion, the Commission shall adopt the draft implementing act.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:ai0043>: „Commission implementing acts must receive the support of a qualified majority (a weighted system of voting where 16 of the 28 EU countries must vote in favor and these votes must represent at least 65 % of the EU's population) of the committee”.

3. the environment, security and safety, or protection of the health or safety, of humans, animals or plants;
4. the common commercial policy;
5. taxation”.

„The advisory procedure<sup>15</sup> applies, as a general rule, for the adoption of implementing acts not falling within the ambit” of the previous fields; the advisory procedure may apply for the adoption of the mentioned implementing acts in duly justified cases.

The Regulation lays down also the rules on the “appeal committee”, “adoption of implementing acts in exceptional cases” and the situations requiring “immediately applicable implementing acts”.

The “comitology” procedure has been set up at the EU level in order to guarantee the participation of the Member States at the regulatory processes ensuring the respect of the repartition of the competences between the Member States and European Union under the principle of conferral and, implicitly, the respect of the principle laid down in the art.1 TEU which provides with that the decisions must be “taken as openly as possible and as closely as possible to the citizen”.

## 2.4 The respect of the proportionality principle

On the adoption procedure of the legal acts, it also important to stress that the Lisbon Treaty introduces the compulsory respect of the principle of proportionality mentioned by the art. 5.4 TEU; “where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality” (art. 296 TFEU). Also, the “legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties”; the text of the art. 296 TFEU does not distinguish the legal acts,

legislative or not and, consequently, this obligation for the EU institutions applying also to the delegated and implementing acts.

## 2.5 The designation of the delegated acts and implementing acts

Other important issue regarding the new acts introduced by Lisbon Treaty concerns the nomenclature<sup>16</sup>/designation of the acts – they are regulations, directives and decisions<sup>17</sup> which are *per se* legislative acts and accordingly the general traits of the EU law apply to these acts, namely supremacy or primacy, direct effect, direct applicability and immediately application<sup>18</sup>; the Member States must ensure the respect of these acts in the same conditions as for the typical legislative acts in accordance with the art.4.3 TEU<sup>19</sup>.

In this context, the hierarchy of the legal acts or secondary EU law seems to be clear and the Lisbon Treaty puts on the top the legislative acts followed by the non-legislative acts and implementing acts<sup>20</sup>; it could be considered as a theoretical hierarchy taking into account the fact that in practice all these acts are compulsory for the Member States.

The mandatory trait of these acts gives the possibility to the Court of Justice of the European Union to hear and determine an action brought by natural or legal persons against acts of the institutions, bodies, offices or agencies of the European Union (which are addressed to them or are of direct and individual concern to them) and against regulatory acts (which concern them directly and which do not entail implementing measures)<sup>21</sup>.

Accordingly with the art. 263 TFEU<sup>22</sup>, it still remains under discussion if a citizen of a Member State could introduce such action on the basis of the general

<sup>15</sup> Art. 4 of the Regulation (EU) no 182/2011

1. Where the advisory procedure applies, the committee shall deliver its opinion, if necessary by taking a vote. If the committee takes a vote, the opinion shall be delivered by a simple majority of its component members.

2. The Commission shall decide on the draft implementing act to be adopted, taking the utmost account of the conclusions drawn from the discussions within the committee and of the opinion delivered.

<sup>16</sup> Isaac, Blanquet, 303: The Lisbon Treaty introduces a double nomenclature.

<sup>17</sup> See for example, Commission Delegated Decision (EU) 2016/790 of 13 January 2016 amending Annex V to Directive 2005/36/EC of the European Parliament and of the Council as regards the evidence of formal qualifications and the titles of training courses (notified under document C(2016) 1) - <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016D0790>

This delegated decision is adopted by the Commission on the basis of the art. 21a.4 of the Directive 2005/36/EC as amended which mentions: “In order to take due account of legislative and administrative developments in the Member States, and on condition that the laws, regulations and administrative provisions notified pursuant to paragraph 1 of this Article are in conformity with the conditions set out in this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 57c in order to amend points 5.1.1 to 5.1.4, 5.2.2, 5.3.2, 5.3.3, 5.4.2, 5.5.2, 5.6.2 and 5.7.1 of Annex V....”. The art. 2 of the delegated decision lays down that „This Decision is addressed to the Member States” and it is clear that this act applies directly into the legislation of the Member States.

<sup>18</sup> Fuerea, Manualul Uniunii Europene, 250.

<sup>19</sup> Duff, 56: „In theory, the Commission is responsible for overseeing the implementation of the legal acts at the European level. In practice, of course, the Commission needs the participation of the states both to formulate the necessary implementing measures and to monitor their efficacy.”

<sup>20</sup> Mihaela-Augustina Dumitraşcu, Roxana-Mariana Popescu, Dreptul Uniunii Europene. Sinteză şi aplicaţii, C.H. Beck, Bucureşti, 2015, 131.

<sup>21</sup> [http://curia.europa.eu/jcms/jcms/Jo2\\_7033/en/](http://curia.europa.eu/jcms/jcms/Jo2_7033/en/)

Art. 263 TFEU

„The Court of Justice of the European Union shall review the legality of legislative acts, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects vis-à-vis third parties”.

<sup>22</sup> Art. 263 TFEU

„Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures”.

application<sup>23</sup> of the delegated acts and the fact that the implementing acts are addressed to the Member States in order to ensure the correct and uniform application of the EU law by these subjects of law.

If the delegated acts are defined as “regulatory acts” mentioned by the art.263 TFEU, having general application, it will be possible to introduce such as action respecting the decision of the Tribunal which stated that “It must be concluded that the fourth paragraph of Article 263 TFEU, read in conjunction with its first paragraph, permits a natural or legal person to institute proceedings against an act addressed to that person and also (i) against a legislative or regulatory act of general application which is of direct and individual concern to them and (ii) against certain acts of general application, namely regulatory acts which are of direct concern to them and do not entail implementing measures. Furthermore, such an interpretation of the word ‘regulatory’, and of the equivalent word in the different language versions of the FEU Treaty, as opposed to the word ‘legislative’, is also apparent from a number of other provisions of the FEU Treaty”<sup>24</sup>.

#### 4. Conclusions

These new categories of acts introduced by the Lisbon Treaty increase the power of the European Commission as executive institution<sup>25</sup> and impose to the Member States the obligation for respecting these acts adopted by the Commission in the same conditions as for the acts adopted by the Council and European Parliament – the EU legislative institutions.

In this regard, it is very important to stress that the new Communication from the Commission EU law: Better results through better application (2017/C 18/02) refers directly to the implementing act when it lays down that “The Member States have the primary responsibility for transposing, applying and implementing EU law correctly”<sup>26</sup>.

It is obvious that the EU rules addressed to the Member States could contain some rights for the citizens of those States and for that it is compulsory to apply or transpose in time and correctly these rules; the new perspective of the European Commission on the EU’s future underlines also the necessity to adapt the content and the form of the acts adopted by the institutions to the expectations of the European citizens namely in the field of Single Market: “Given the strong focus on reducing regulation at EU level, differences persist or increase in areas such as consumer, social and environmental standards, as well as in taxation and in the use of public subsidies. Citizens’ rights derived from EU law may become restricted over time. Decision-making may be simpler to understand but the capacity to act collectively is limited. This may widen the gap between expectations and delivery at all levels”<sup>27</sup>.

These competences in the regulatory field could transform the Commission into a national executive institution taking into account that at national level it happens the same situation where the Government<sup>28</sup> – the executive power adopts compulsory normative acts which, for example in Romania, have not the same nomenclature as for the acts adopted by the Parliament; nevertheless, “as the subtle re-balancing of the

<sup>23</sup> In the case-law *Jégo-Quéré vs Commission*, T-117/01, the Tribunal did state that a legal person could claim the annulment of a legislative act with a general application in some conditions: „It is, however, necessary to consider whether, notwithstanding their general scope, the contested provisions may nevertheless be regarded as being of direct and individual concern to the applicant. According to settled case-law, the fact that a provision is of general application does not prevent it from being of direct and individual concern to some of the economic operators whom it affects”(para. 25). “It must be concluded that the criterion of direct concern is fulfilled in the present case. For a person to be directly concerned by a Community measure, the latter must directly affect the legal situation of the individual and leave no discretion to the addressees of that measure who are entrusted with the task of implementing it, such implementation being purely automatic and resulting from Community rules without the application of other intermediate rules” (para.26).

The Court did pronounce the annulment of the Tribunal’s decision in the case law C-263/02: „However, it is not appropriate for an action for annulment before the Community Court to be available to an individual who contests the validity of a measure of general application, such as a regulation, which does not distinguish him individually in the same way as an addressee, even if it could be shown, following an examination by that Court of the particular national procedural rules, that those rules do not allow the individual to bring proceedings to contest the validity of the Community measure at issue”.

<sup>24</sup> Case T-18/10, para. 45 and 46.

<sup>25</sup> Duff, 56: “The Treaty of Lisbon makes progress in clarifying who could delegate executive authority to the Commission and under what terms. A greater willingness on behalf of the legislator to delegate technical minutiae to the Commission has been recorded in the new treaty”.

<sup>26</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0119\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017XC0119(01))

„...the Commission attaches importance to ensuring that national legislation complies with EU law since incorrect national legislation systematically undermines citizens’ ability to assert their rights including their fundamental rights, and to draw fully the benefits from EU legislation”.

„Under the recently signed Inter-institutional Agreement on Better Law-Making (Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123 of 12.5.2016, p. 1), the European Parliament, the Council and the Commission recognize their joint responsibility in delivering high-quality Union legislation. The Joint Declaration on the EU’s legislative priorities for 2017 reiterates the commitment to promoting the proper implementation and enforcement of existing legislation (Joint Declaration on the EU’s legislative priorities for 2017 signed by the Presidents of the European Parliament, the Council and the Commission on 13 December)”.

<sup>27</sup> White Paper on the Future of Europe. Reflections and scenarios for the EU27 by 2025

Scenario 2: Nothing but the single market

[https://ec.europa.eu/commission/sites/beta-political/files/white\\_paper\\_on\\_the\\_future\\_of\\_europe\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/white_paper_on_the_future_of_europe_en.pdf)

Fuerea, Manualul Uniunii Europene, 89.

<sup>28</sup> Emilia Lucia Cătană, “Forme de activitate ale Comisiei Europene din perspectiva Tratatului de la Lisabona. Privire specială asupra controlului administrativ exercitat în domeniul gestionării de către statele membre a relațiilor cu petiționarii”, *Revista de Drept Public*, 2 (2015): 53: The European Commission is the executive institution of the European Union being considered “the government of the Union”.

comitology system illustrates, the treaty establishes a good balance between the demands of enhanced democracy and the needs of greater efficiency in a

larger and more complex Union-while all the time understanding the principle of the separation of powers between legislature and executive"<sup>29</sup>.

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<sup>29</sup> Duff, 58.