

The EU Decision Making Process: When to Step In

Public Affairs Council

6 February 2025

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1. A Mechanical Approach

2. When to Engage Ordinary Legislation

- A Generic Map for Ordinary Legislation
- A Case Study – CLP Adoption
- An Evergreen Master Map
- Lessons Learned

3. When to Engage Secondary

- Delegated Act
- RPS Measures
- Implementing Acts

The Case for a Mechanical Approach

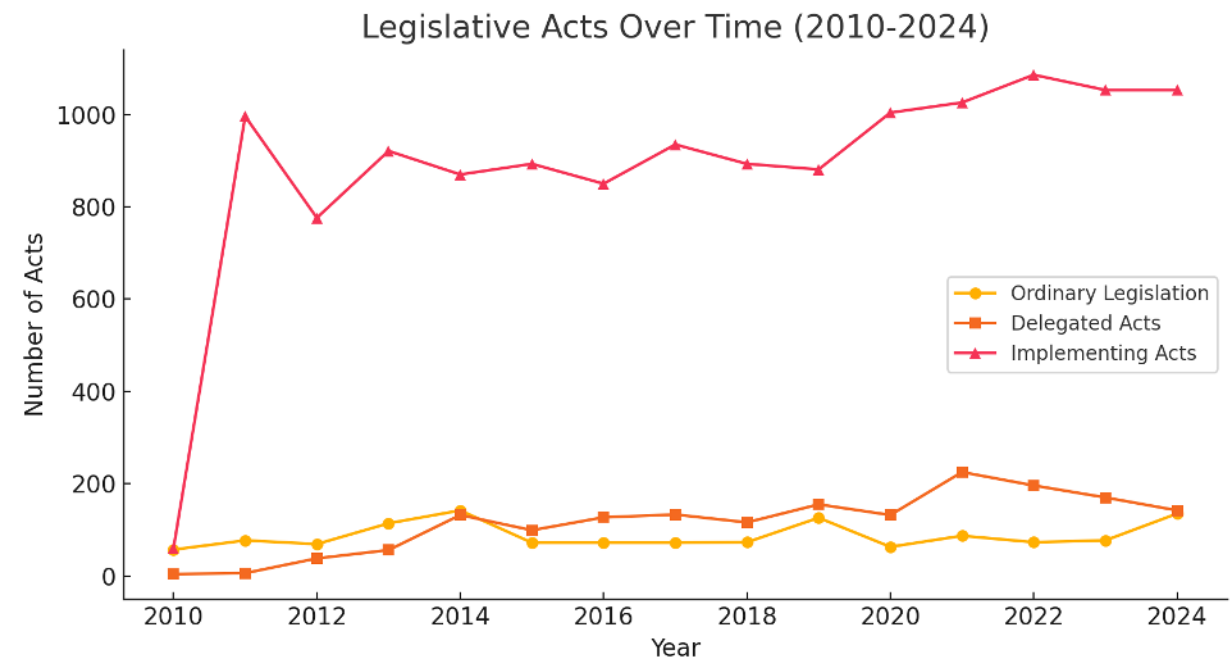
Contain emotional
response

It Reduces
Bad Surprises

It Provides a Map
to Guide You

It Allows to
Adapt and Evolve

OLP v DIA



Take Aways

- The earlier you step in to influence a measure, the better.
- The windows of opportunity to influence a proposal are 'lit up' for you.
- There are a limited number of people you need to deal with.
- It is better/easier to try and influence the preparation than afterwards.
- You need credible evidence to support your case, brought at the right time.
- Engage at the right time, with the right people, right evidence, and the right values.

When to Engage – The Start



Know & Use the Rule Book



EUROPE'S CHOICE

POLITICAL GUIDELINES
FOR THE NEXT EUROPEAN COMMISSION
2024–2029

Ursula von der Leyen
Candidate for the European Commission President



Better Regulation **TOOLBOX**



Better Regulation **GUIDELINES**

MISSION LETTER

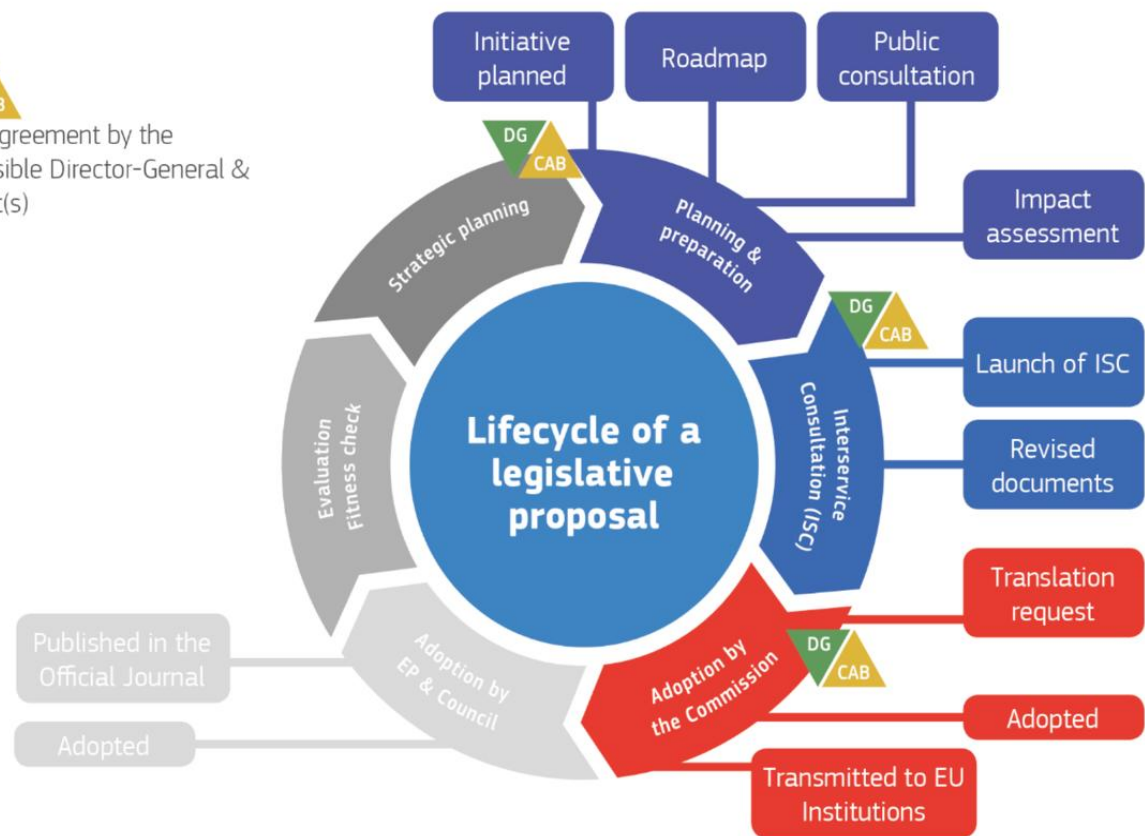
Ursula von der Leyen
President of the European Commission

COMMUNICATION FROM THE PRESIDENT TO THE COMMISSION

The Working Methods of the European Commission



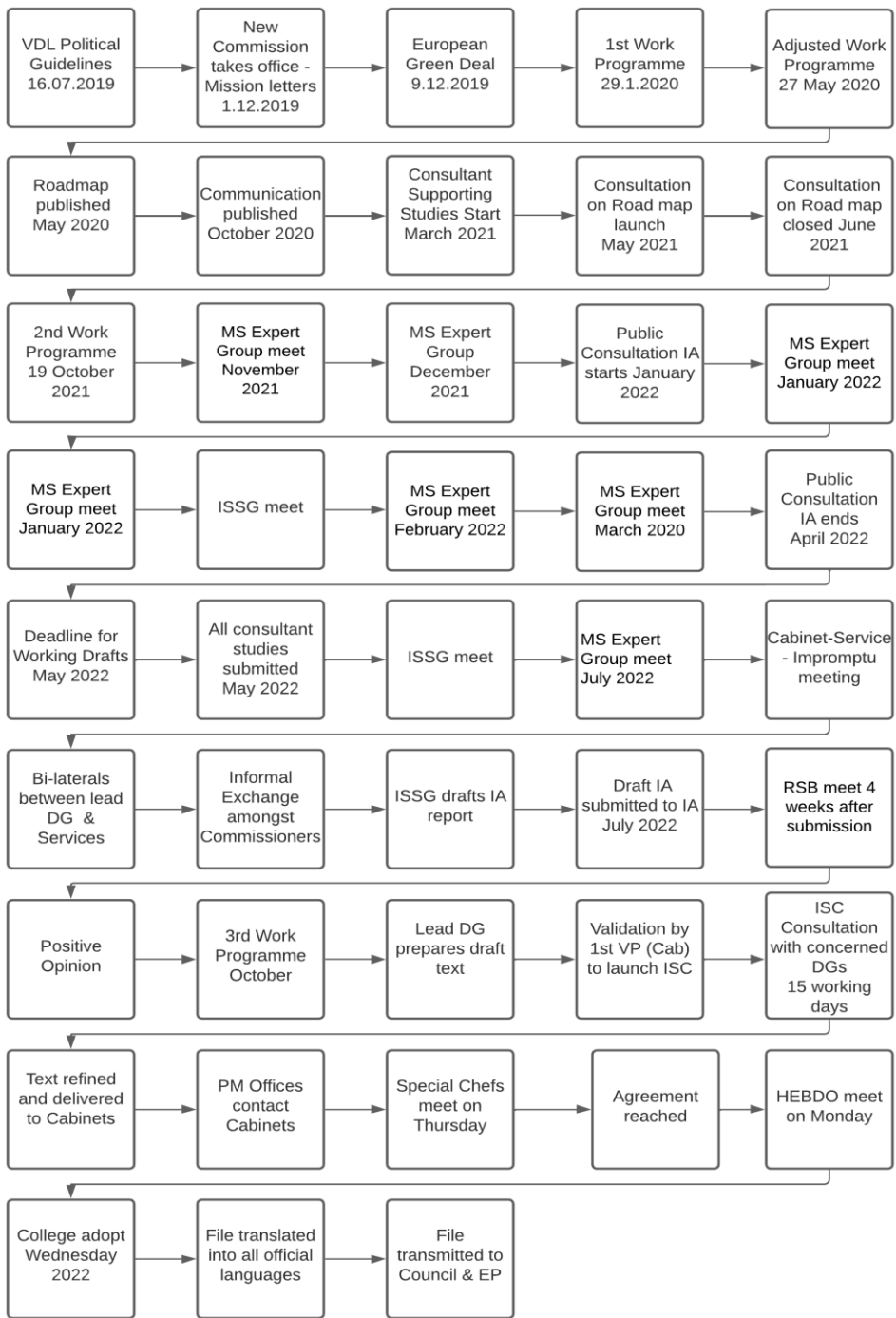
*Prior agreement by the responsible Director-General & Cabinet(s)



3 Clear Stages:

- Preparation
- Adoption
- Legislative Passage

99% of proposals will go through this journey.



Lessons Learned

- The Windows of Opportunity are marked.
- Engage with the Key People
 - Task Force
 - ISSG
 - ISC (Services & Cabinet)
 - Member State Experts



[Inter-Service Steering Group (ISSG) Inter-Service Consultation (ISC)]

- Don't miss the opportunity / Bring the right evidence on time
 - shadow impact assessments
 - reliable data & studies
- Bring solutions to the table
- Practice evolves
- Most decisions are taken by written procedures

Take Aways: OLP

- Engage early with data, evidence and solutions.
- 8 Weeks post adoption are key. Lines to take get firmed up quickly.
- There are a limited number of people you need to deal with – 100/20.
- People won't switch back once position agreed on.
- Innovation will occur: Technical trilogues.
- Turn up on time. Internal meetings are your greatest enemy.
- A compromise agreement is the destination.

OLP – CLP The Journey – 119 steps

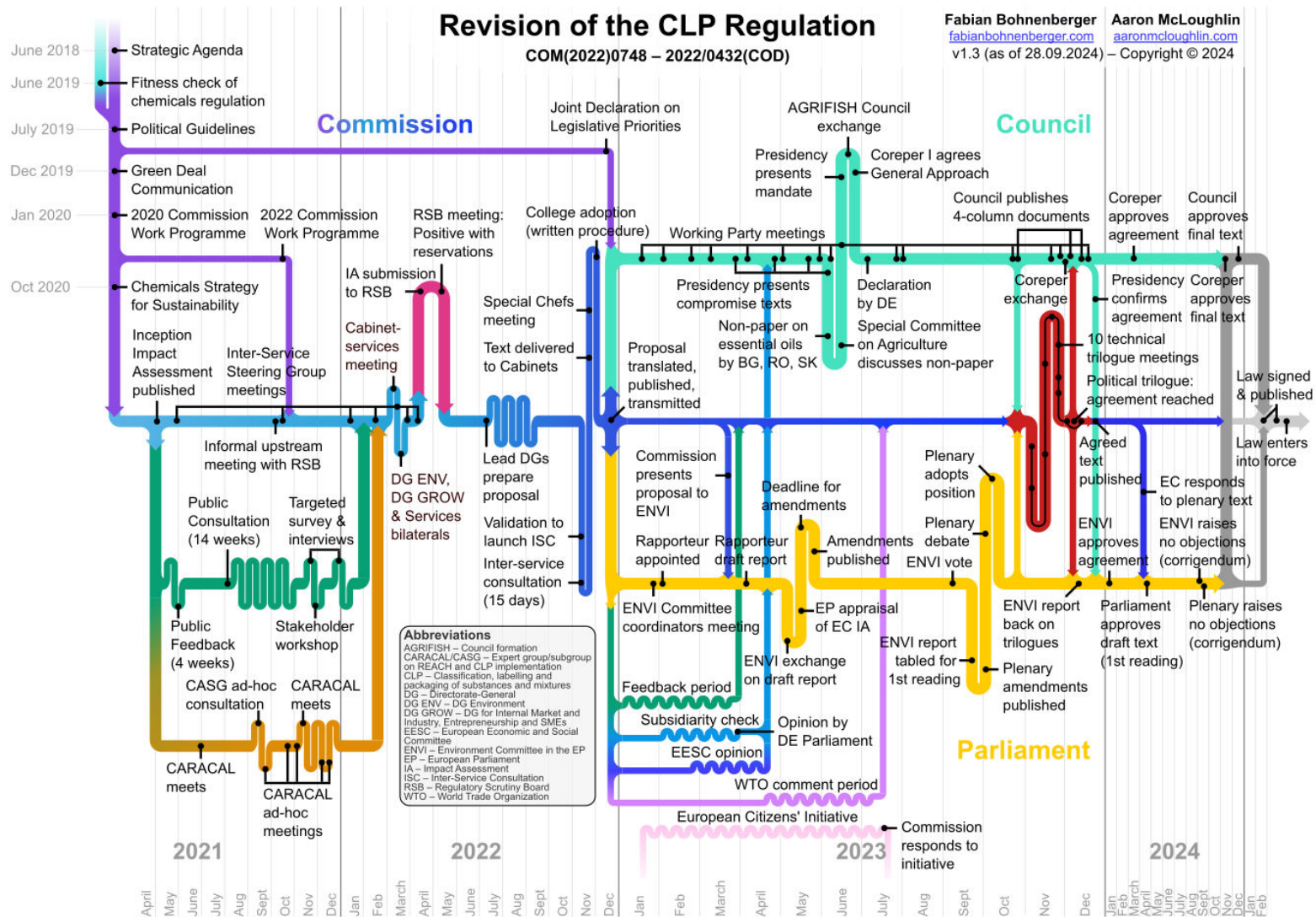
1. 20 June 2019, [New Strategic Agenda 2019-2024](#), European Council
2. 16 July 2019, [A Union that strives for more. My agenda for Europe](#), European Commission (Europe needs to move towards a zero-pollution ambition. I will put forward a cross-cutting strategy to protect citizens' health from environmental degradation and pollution, addressing air and water quality, hazardous chemicals, industrial emissions, pesticides and endocrine disruptors.p.7), Commission
3. 11 December 2019, [Green Deal Communication](#) (Chemicals strategy for sustainability, Summer 2020) Commission
4. 28 January 2020, [Commission Work 2020 Programme](#), European Commission.
5. 27 May 2020, [Adjusted Commission Work Programme 2020](#)
6. 14 October 2020, Communication: [Chemical Strategy for Sustainability](#), Commission (Proposal to amend CLP Regulation to give the Commission the mandate to initiate harmonised classification – CLP Regulation – 2021. Annex)
7. 19 October 2020, [Commission Work Programme 2021, Annex](#), Commission (no mention)
8. 19 October 2021, [Commission Work Programme 2022](#), Annex, Commission (Annex, A European Green Deal, 1. Zero pollution package.
 - a) **Revision of Regulation (EC) No 1272/2008 on classification, labelling and packaging** (legislative, incl. impact assessment, Article 114 TFEU, Q2 2022))
9. 4 May 2021, [Feedback on Inception impact assessment published](#), Commission
10. 31 May 2021, ISSG meet
11. 29-30 June 2021: Update to CARACAL Expert Group
12. 1 June 2021, [Feedback on Inception impact assessment closes](#), Commission
13. 9 August 2021, [Start of Open Public Consultation on the revision of the CLP Regulation](#), 12 weeks, Commission
14. 30 September 2021: CARACAL -Expert Group
15. October 2021: Studies Start
16. 6 October 2021: Informal RSB Upstream Meeting
17. 15 October 2021, ISSG meet
18. 27 October 2021: CARACAL – Expert Group
19. 10 November 2021: Start of targeted consultation – 6 weeks
20. 15 November 2021, [End of Open Public Consultation on the revision of the CLP Regulation](#), Commission
21. 17-18 November 2021: Update to CARACAL -Expert Group
22. 26 November 2021: Stakeholder Workshop
23. 6 December 2021: CARACAL -Expert Group
24. 14 December 2021: CARACAL – Expert Group
25. 22 December 2021: Targeted consultation ends
26. 18 January 2022: ISSG meet

27. 17 February 2022: ISSG meet
28. 14 March 2022: ISSG meet
29. Bilaterals between ENV & Services
30. 28 March 2022: ISSG meet
31. 6 April 2022: ISSG meet
32. 13 April 2022: Impact Assessment submitted to RSB
33. 11 May 2022: RSB Meet. Positive with Reservations
34. May 2022: Lead DGs prepares draft textCLP
35. 18 October 2022, [Commission Work Programme 2023, Annexes](#), Commission
36. 7 November 2022: ISC 24 DGs, 15 working days > 20 pp; Validation by 1st VP (Cab) and 3 Commissioners to launch ISC
37. Text refined and delivered to Cabinets
38. 24 November: Special Chefs meet
39. 25 November 2022: ISC ended, Positive opinion
40. 13 December 2022: [College of Commissioners meet](#) (not on agenda)
41. 19 December 2022: [Proposal adopted](#) by written procedure
42. 20 December 2022: [Start of Feedback on Proposal](#), Commission
43. 24 January 2023: [Co-Ordinator's Meeting](#). EPP allocated file with 1 point.
44. 3 February 2023: [Letter of referral](#) to National Parliaments transmitted – Subsidiarity check
45. 3 February 2023: EP appoint [Rapporteur](#) Maria Spyrali MEP (Greece/EPP)
46. 6 February 2023: [Working Party](#) on Technical Harmonisation – Dangerous Substances – Chemicals met
47. 22 February 2023: [Working Party Meeting on Technical Harmonisation \(Dangerous Substances – Chemicals\) met](#)
48. 13 March 2023: [Working Party](#) met
49. 20 March 2023, [End of Feedback on Proposal](#), Commission
50. 22 March 2023: [Presentation of Proposal by the Commission](#) at ENVI Committee ([video link](#) at 17:47)
51. 31 March 2023: Subsidiarity Deadline. German Parliament Subsidiarity [feedback](#) and **11 other** National Parliament assessed
52. 5 April 2023: Rapporteur publishes [draft report](#)
53. 5 April 2023: [Working Party](#) met
54. 17 April 2023: WTO TBT Committee [notified](#) – consultation startsT
55. 27 April 2023: European Economic and Social Committee adopt [Opinion](#)
56. 2 May 2023: [Working Party](#) met
57. 4 May 2023: ENVI [exchange of views](#) on draft Rapporteur's report ([video link](#) at 10.23)
58. 8 May 2023: EP Briefing. Initial [Appraisal](#) of a European Commission Impact Assessment.

A Case Study - OLP -CLP Adoption

Green Deal Communication 11 December 2019	CSS Communication 14 October 2020	2022 Work Programme 19 October 2021 - Q2 2022	Inception IA published 4 May 2021	ISSG meet 31 May 2021
CARACAL IA - Expert Group 29 June 2021	Feedback on IA ends 1 June 2021	12 week Public Consultation 9 August - 5 November 2021	ISSG meet 15 October 2021	October 2021, Studies Start
CARACAL - Revision 30 September 2021	RSB Upstream Meeting 6 October 2021	CARACAL - Revision 27 October 2021	Targeted Consultation - MS- 10 November - 22 December 2021	CARACAL - IA Expert Group 11 November 2021
CLP Public Consultation on Inception IA deadline 15. Nov 2021	Stakeholder Workshop 26 November 2021	CARACAL - Revision 6 December 2021	CARACAL - Revision 14 December 2021	ISSG meet 18 January 2022
ISSG meet 17 February 2022	Cabinet-Service - Impromptu meeting	ISSG meet 14 March 2022	Bilaterals between ENV & Services	ISSG meet 28 March 2022
ISSG meet 6 April 2022	CLP IA draft submission to RSB 13 April 2022	CLP RSB meeting on 11 May 2022	Positive with reservation Opinion 11 May CLP	Lead DGs prepares draft text CLP
Validation by 1st VP (Cab) to launch ISC CLP Written Procedure	ISC relevant DGs 15 working days > 20 pp - 7 November	Text refined and delivered to Cabinets	Special Chfs meet on Thursday	ISC ended on Friday 25 November 2022 + opinion
Published 19 December 2022	File translated into all official languages	File transmitted to Council & EP	Note: Table to Be Updated	

CLP





European
Commission

Delegated and Implementing Acts

(Articles 290 and 291 Treaty on the Functioning of the European Union)

GUIDELINES FOR THE SERVICES OF THE COMMISSION

Secondary Legislation

Fundamentals for Working with Delegated & Implementing Acts

&I Acts (and your work on them) do not start only in the implementation phase; they should be monitored and engaged with as of the legislative thinking phase (i.e. the very beginning).

Work with D&I Acts through OLP: small changes there can make an important difference later.

A good knowledge of the procedures for D&I Acts is essential - more so than for OLP because it is generally less well understood (by the Institutions as well).

You need to understand how D&I Acts work within the three main institutions and the exact roles that each can play – often so you can educate others on this.

Timing is essential for D&I Acts - the windows of opportunity are much smaller than those for OLP.

D&I Acts are inherently technical dossiers so you will need to have solid technical expertise to deliver, but packaged the right way for your different audiences.

D&I Acts (especially Delegated Acts) can also be political so do not neglect the importance of the politics that surrounds each dossier.

The circle of key actors is much reduced, so having long-standing contacts and networks can be invaluable. You need to know the members of the Expert Group (Delegated Acts) or the Committee (Implementing Act, RPS)

Getting stakeholders engaged on D&I Acts can be challenging at times because D&I Acts are lower key and often much more specific and targeted. Unlike for OLP you often have to work out how to sell your subject – why should people be interested.

Much of the work on D&I Acts happens below the radar – in fact if you did not know what to follow or where to look you could be forgiven for missing them completely. You will need to know your way around this legislative underworld to succeed.

Differences Between Delegated & Implementing Acts




Implementing Acts (Article 291 TFEU)	Delegated Acts (Article 290 TFEU)
<ol style="list-style-type: none"> 1. Routine implementation of EU legislation 2. Can only implement clearly defined tasks 3. Can be issues of general or individual scope 	<ol style="list-style-type: none"> 1. Sensitive implementation matters for the legislators 2. Can supplement, amend or delete non-essential elements of legislative act 3. Always issues of general scope
<ol style="list-style-type: none"> 1. A binding framework - Implementing Acts Regulation 2. Horizontal framework - selection from two procedures (advisory and examination) 	<ol style="list-style-type: none"> 1. No binding framework - Common Understanding 2. No horizontal framework - objectives, content, scope and duration are decided on a <u>case by case</u> basis in each legislative act

<ol style="list-style-type: none"> 1. Obligatory consultation of Comitology Committee 2. Committee = 1 representative of each MS (possible Observers like EU Agencies, EFTA Countries, etc.) 3. Chaired by Commission 	<ol style="list-style-type: none"> 1. No consultation of Comitology Committee 2. Probable use of Expert Groups, EU Agencies and other sources of information
<p>Control by (Comitology Committee or Appeal Committee):</p> <ol style="list-style-type: none"> 1. Advisory: Simple majority vote - non-binding opinion 2. Examination: Qualified majority vote (QMV*) to approve Commission proposal 3. Appeal Committee: referrals from Committee dealt with by representatives at 'appropriate level' <p><i>*A QMV requires 55% of the Member States (this means in practice 15 out of 27), and 65% of the EU population</i></p>	<p>Control by (EP and/or Council):</p> <ol style="list-style-type: none"> 1. Veto - object to an individual Delegated Act on any grounds within the deadline set by the legislative act (usually 2+2 <u>months</u>)* 2. Revocation - revoke the delegation of powers to the Commission altogether <p><i>*Super qualified QMV to block = 72% of EU MS votes in favor and represents at least 65% of EU population (20 Member States)</i> <i>EP: Absolute Majority = 361 MEPs</i></p>
<p>Observations:</p> <ol style="list-style-type: none"> 1. Special cases for Common Commercial Policy 2. Flexibility for the Commission, which MAY adopt the draft measures where there is no qualified majority against 3. Right of Scrutiny for EP and Council - at any time 	<p>Observations:</p> <ol style="list-style-type: none"> 1. Parliament and Council on perfect equal footing 2. Both legislatures define the modalities of Delegated Acts, but can revoke the delegation afterwards without the other's consent

Differences Contd

<p>Control by (Comitology Committee or Appeal Committee):</p> <p>Advisory: Simple majority vote - non-binding opinion</p> <p>Examination: Qualified majority vote (QMV*) to approve Commission proposal</p> <p>Appeal Committee: referrals from Committee dealt with by representatives at 'appropriate level'</p> <p><i>*A QMV requires 55% of the Member States (this means in practice 15 out of 27), and 65% of the EU population</i></p>	<p>Control by (EP and/or Council):</p> <p>Veto - object to an individual Delegated Act on any grounds within the deadline set by the legislative act (usually 2+2 <u>months</u>)*</p> <p>Revocation - revoke the delegation of powers to the Commission altogether</p> <p><i>Super qualified QMV to block = 72% of EU MS votes in favor and represents at least 65% of EU population (20 Member States)</i></p> <p><i>EP: Absolute Majority = 361 MEPs</i></p>
<p>Observations:</p> <p>Special cases for Common Commercial Policy</p> <p>Flexibility for the Commission, which MAY adopt the draft measures where there is no qualified majority against</p> <p>Right of Scrutiny for EP and Council - at any time</p>	<p>Observations:</p> <p>Parliament and Council on perfect equal footing</p> <p>Both legislatures define the modalities of Delegated Acts, but can revoke the delegation afterwards without the other's consent</p>

Track DIA



Register of delegated and implementing acts

English

Login

Register

Active accessibility styles

No

Home

Delegated acts

Implementing acts


Legislative acts


Expert group meetings


Register of delegated and implementing acts


This register gives you access to the various steps in the preparation, adoption, scrutiny and publication of delegated acts, as well as to the planning, adoption and publication of implementing acts.



Explore what are you looking for by topic











English

Comitology Register

Home

Committees

Meetings

Documents

Annual Reports

Datasets

Comitology Register

Comitology Register

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- Draft implementing acts submitted to committees (if these have not yet been made public, only the reference is provided).
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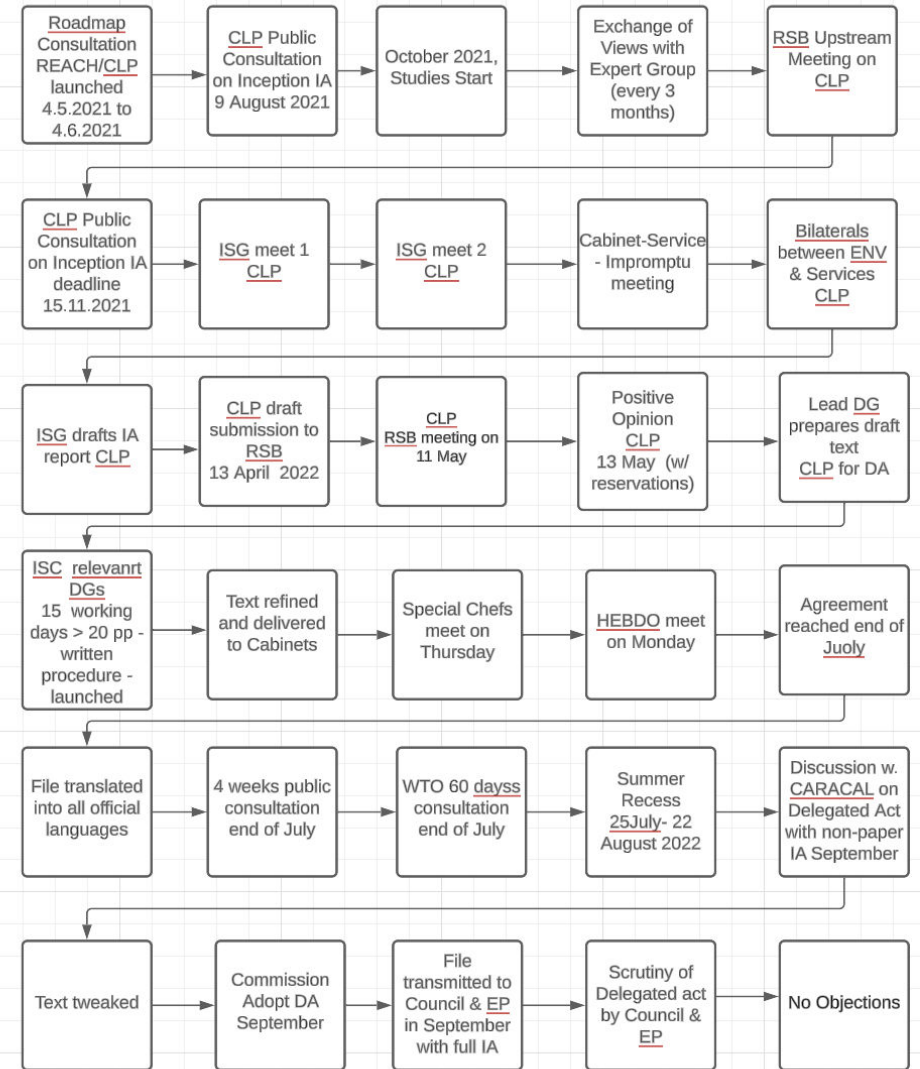
The documents available in the register enable you to trace the different stages of an implementing act throughout its entire lifecycle. Most documents can be downloaded. Those that cannot be downloaded can be requested from the relevant Commission department. That department will contact you by e-mail, usually enclosing the document.

Search the register

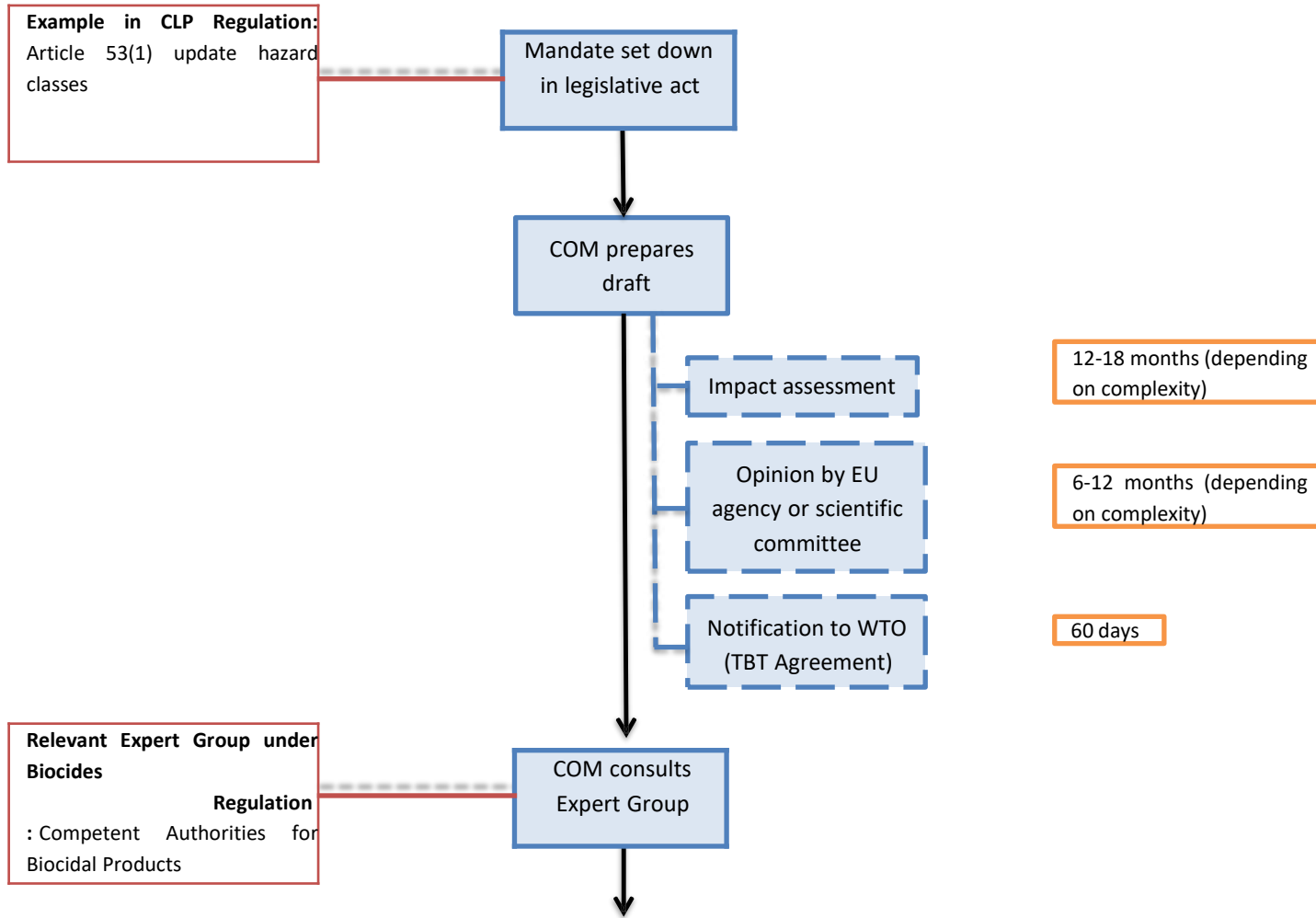
DA – Journey – CLP DA

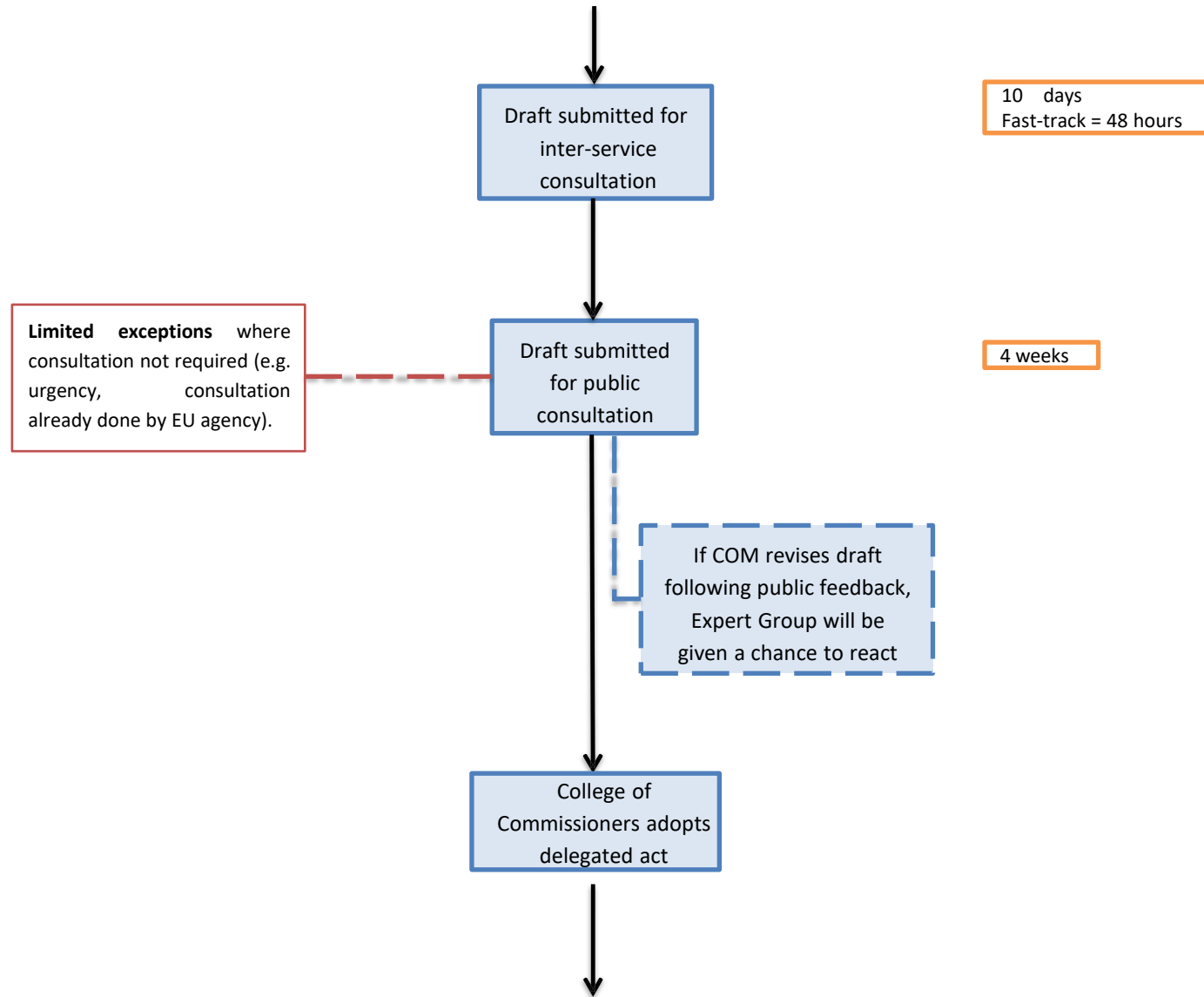
- **7 November 2018:** Communication ‘Towards a comprehensive European Union framework on endocrine disruptors’
- **6 November 2019:** CARACAL discuss mandate on sub-group on endocrine disruptors
- **11 December 2019:** Fitness Check of the EU legislation with regard to Endocrine Disruptors
- **7 February 2020:** CARACAL sub-group meet
- **19 May 2020:** Framework Contract to support scientific and technical assistance for the reform of REACH, CLP, PIC and POP published
- **2 July 2020:** CARACAL sub-group meet
- **14 October 2020:** Commission Communication, Chemicals Strategy for Sustainability. See action mentioned in box, page 13
- **19 October 2020:** CARACAL sub-group meet
- **22 March 2021:** The commission presents a draft proposal on endocrine disruptors to the CARACAL’s sub-group on endocrine disruptors
- **4 May 2021:** Launch of Inception Impact Assessment
- **28 May 2021:** ECHA’s PBT Expert Group
- **28 June 2021:** ECHA’s PBT Expert Group
- **9 August 2021:** Launch Public Consultation ([link](#))
- **30 September 2021:** CARACAL meet
- **14 December 2021:** CARACAL meet
- **22 February 2022:** CARACAL subgroup meets
- **13 April 2022:** Impact Assessment transmitted to RSB
- **11 May 2022:** RSB meet
- **13 May 2022:** RSB Positive Opinion on Impact Assessment
- **5 July 2022:** CARACAL
- **13 September 2022:** CARACAL sub-group meet
- **20 September 2022:** Launch of Public Consultation on Draft Delegated Act ([link](#))
- **10 October 2022:** CARACAL discuss the feedback on the draft delegated act
- **18 October 2022:** Deadline for Comments to the public consultation
- **30 October 2022:** Impact Assessment to support the CLP DA proposal published by mistake and withdrawn
- **11 November 2022:** Revised Draft Regulation
- **15 November 2022:** Public Consultation ends ([link](#))

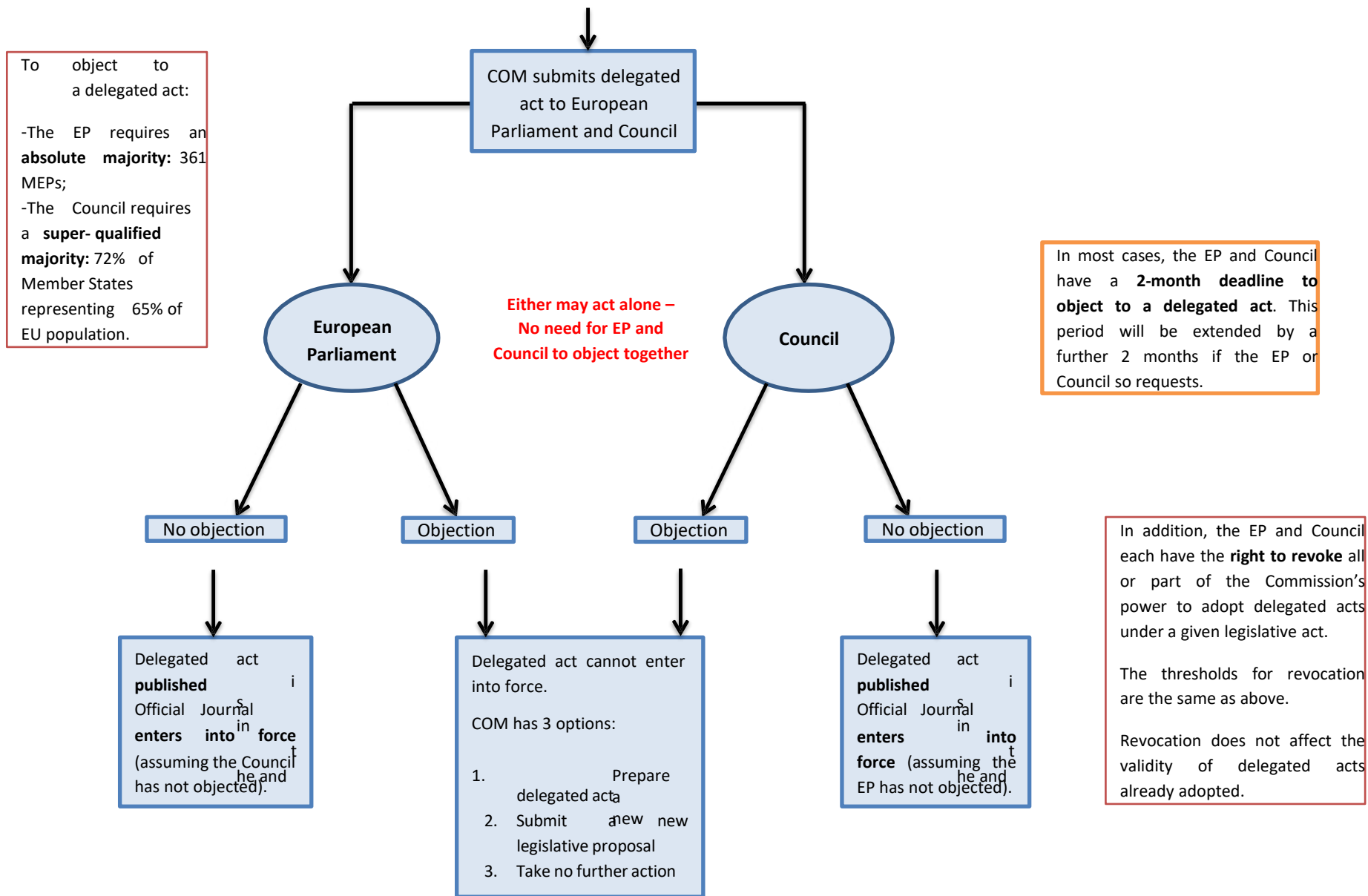
DA – Case Study



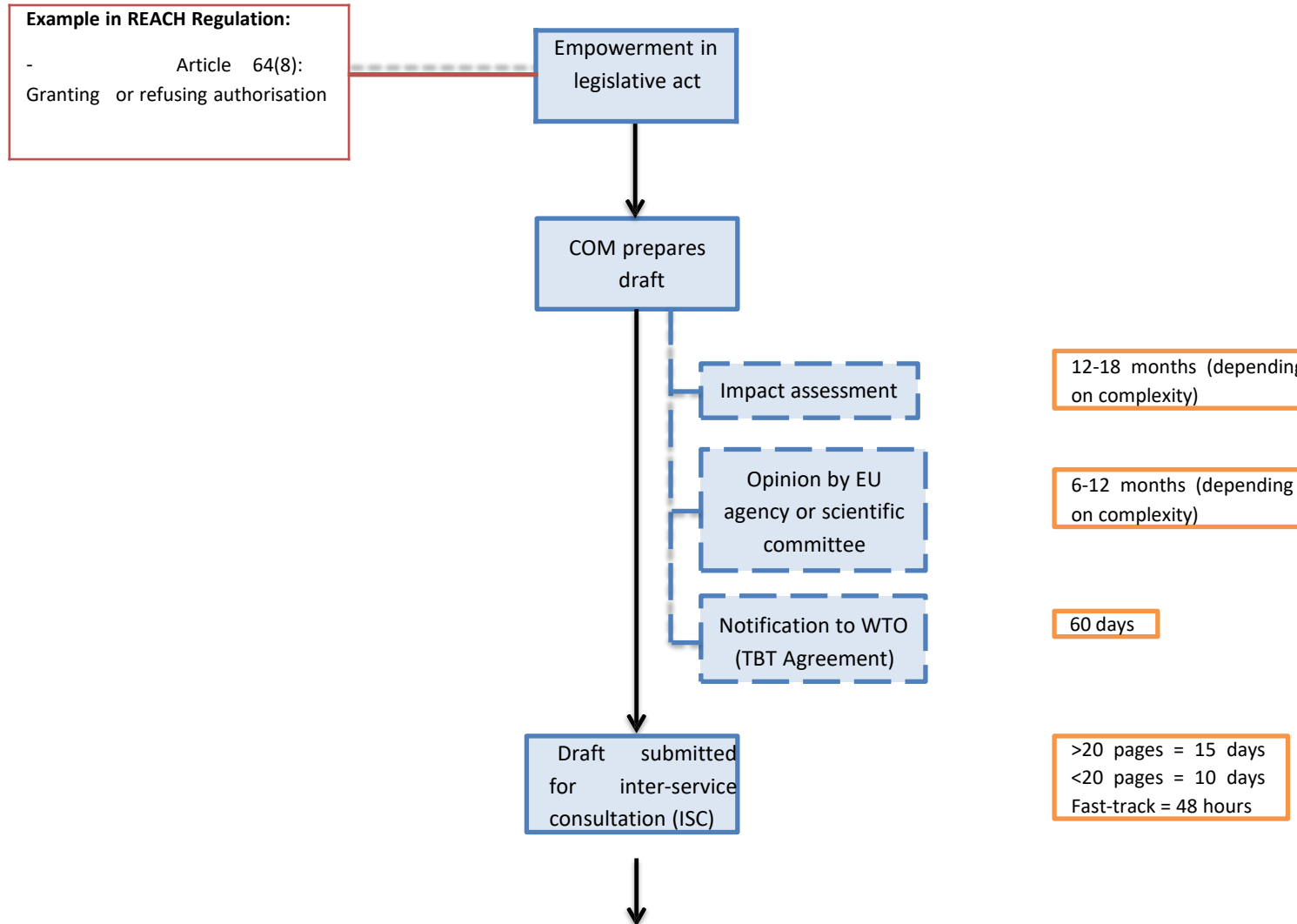
Delegated acts

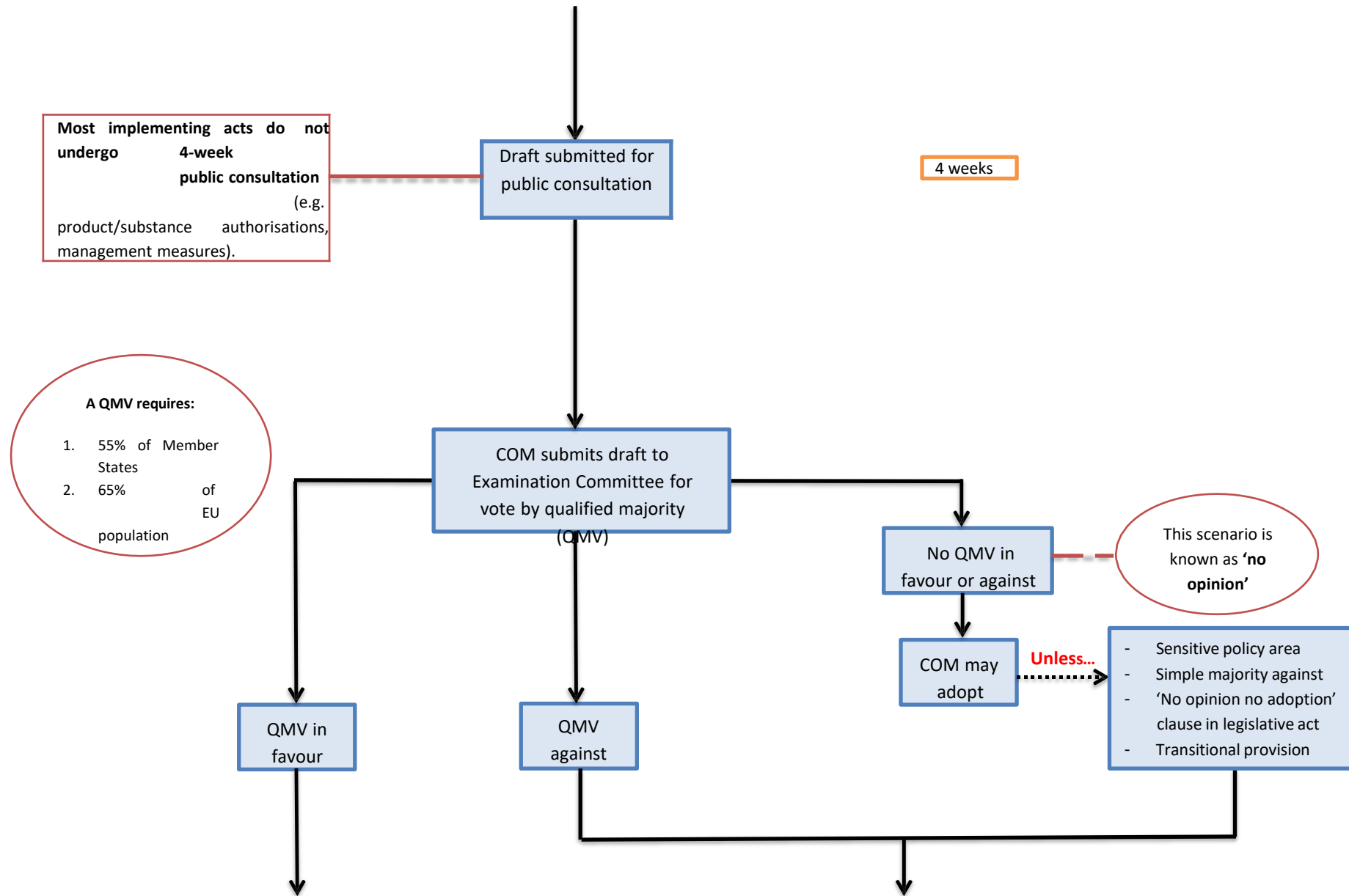


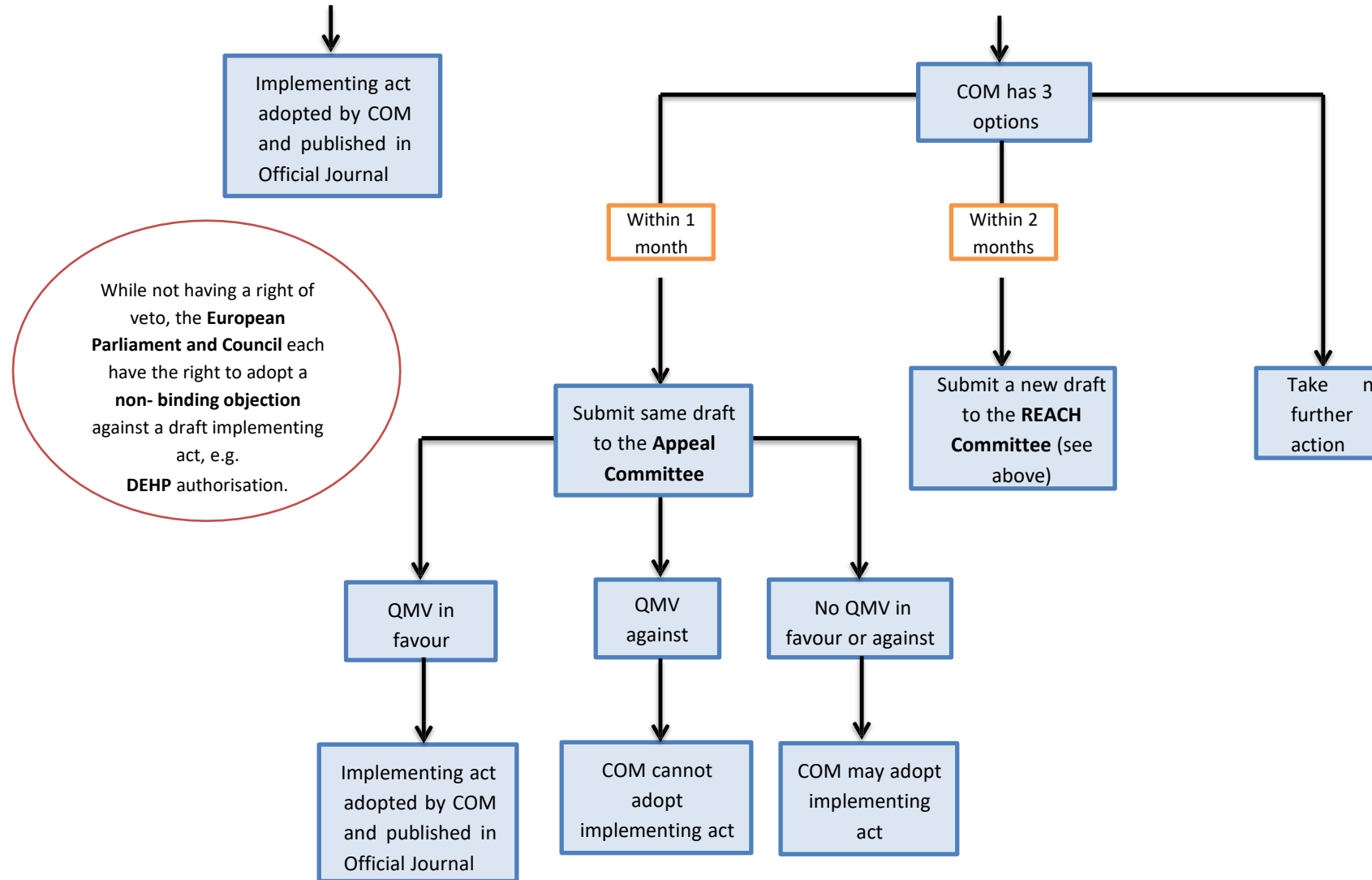




Implementing acts (Examination procedure)



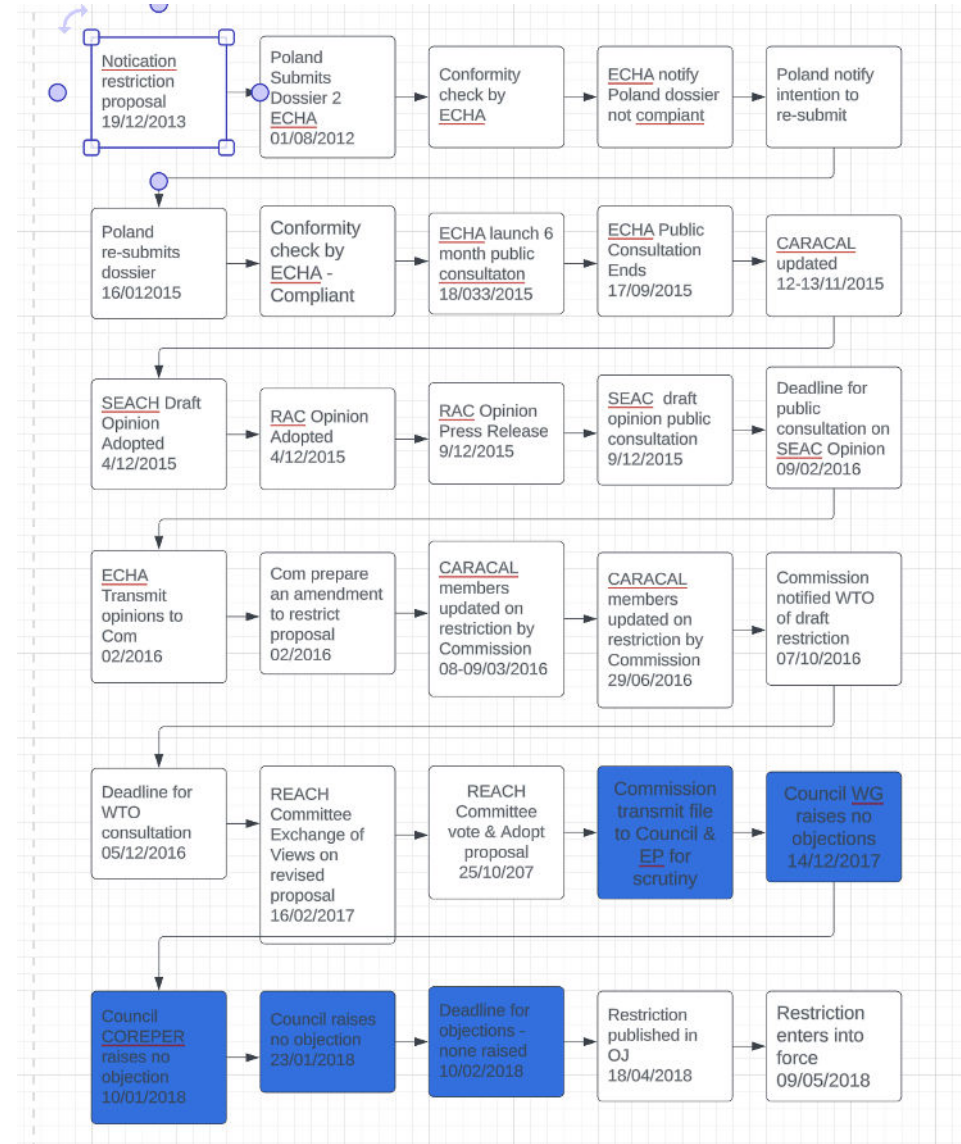




RPS – Case Study – Methanol REACH Restriction - Journey

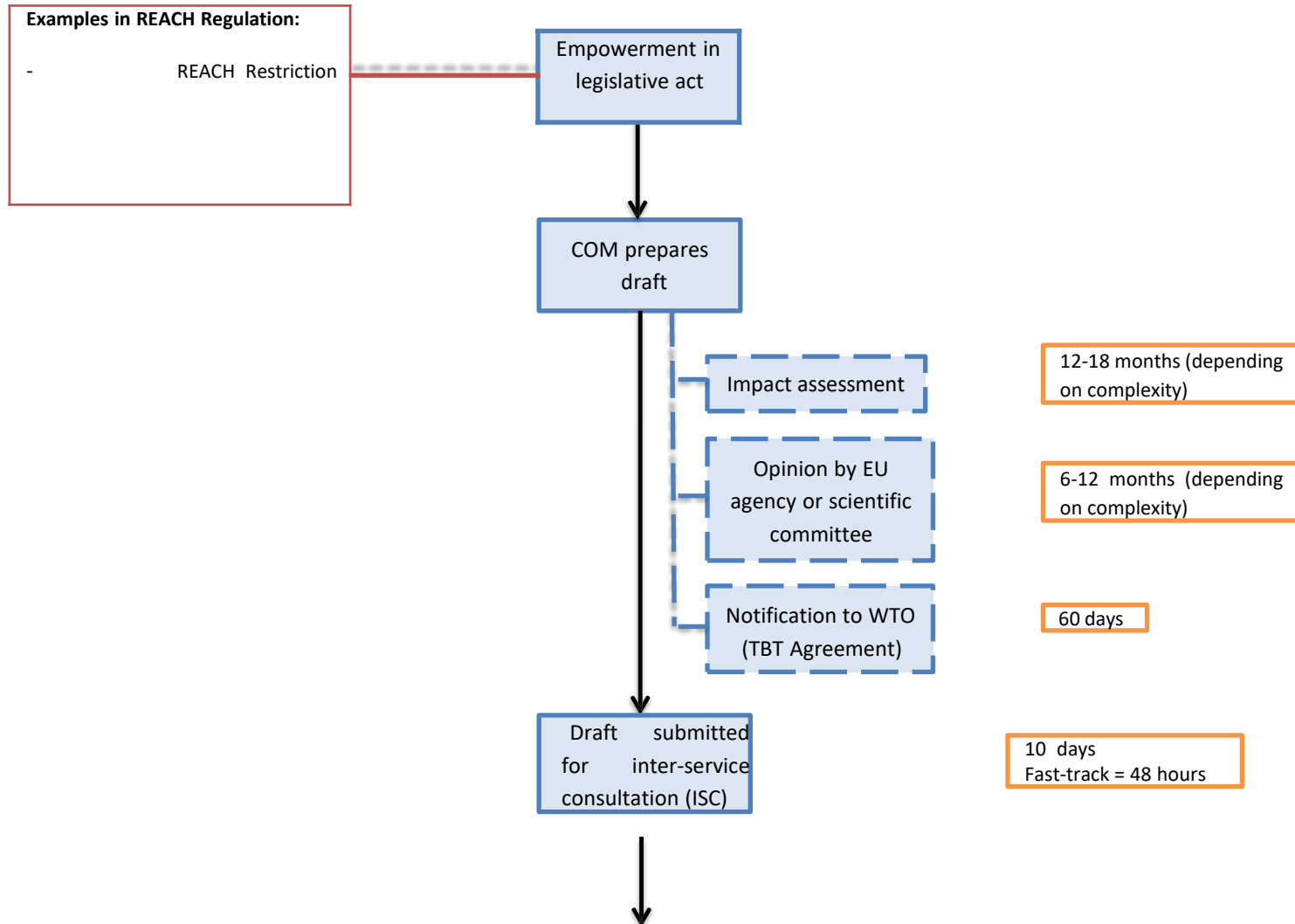
- 17 September 2015: Poland Substance Evaluation Report on Methanol concluded, recommends restriction
- 012: Poland starts work on Substance Evaluation
- 19 December 2013: Notification by Poland to ECHA of intention to submit a Restriction proposal
- 1 August 2014: Poland submits a dossier to ECHA
- Conformity chre-submiteck by ECHA
- ECHA notify Poland that the dossier is not in compliance with an Annex XV dossier
- Poland notification of intention to re-submit
- 16 January 2015: Poland dossier to ECHA ([link](#))
- Start Scrutiny by ECHA Committees
- 18 March 2015: ECHA launches public consultation on the proposal (6 months – ends 18 September 2015)
- 17 September 2015: ECHA public consultation deadline ends
- 12-13 November 2015: CARACAL updated on progress
- 4 December 2015: SEAC draft opinion adopted
- 4 December 2015: RAC Opinion adopted
- 9 December 2015: Press release of the adoption of the RAC Opinion
- 9 December 2015: SEAC draft opinion launch for public consultation
- 9 February 2016: Deadline for public consultation on SEAC draft opinion
- ECHA transmit opinions to Commission
- Commission prepare an amendment to restrict methanol
- 8-9 March 2016: CARACAL members receive an update on restriction
- 29 June – 1 July 2016: CARACAL members receive an update on restriction
- 7 October 2016: Commission notifies WTO of draft restriction
- 5 December 2016: Deadline for WTO consultation closes. China makes submissions.
- 16 February 2017: REACH Committee exchange of views on the revised proposal
- 24-26 October 2017: REACH Committee (Member State Committee) adopts draft measure (19 in favour, 8 against, 1 abstention) ([link to voting results](#))
- File transmitted to European Parliament and Council
- 14 December 2017: Council working group raises no objections
- 10 January 2018: COREPER raise no objections
- 23 January 2018: Council (Economic and Financial Affairs Council) raise no objection
- 10 February 2018: Deadline for objections – No objections raised
- 18 April 2018: Restriction published in Official Journal ([link](#))
- 9 May 2018: Restriction enters into force

RPS Case Study



RPS Chart

Regulatory Procedure with Scrutiny

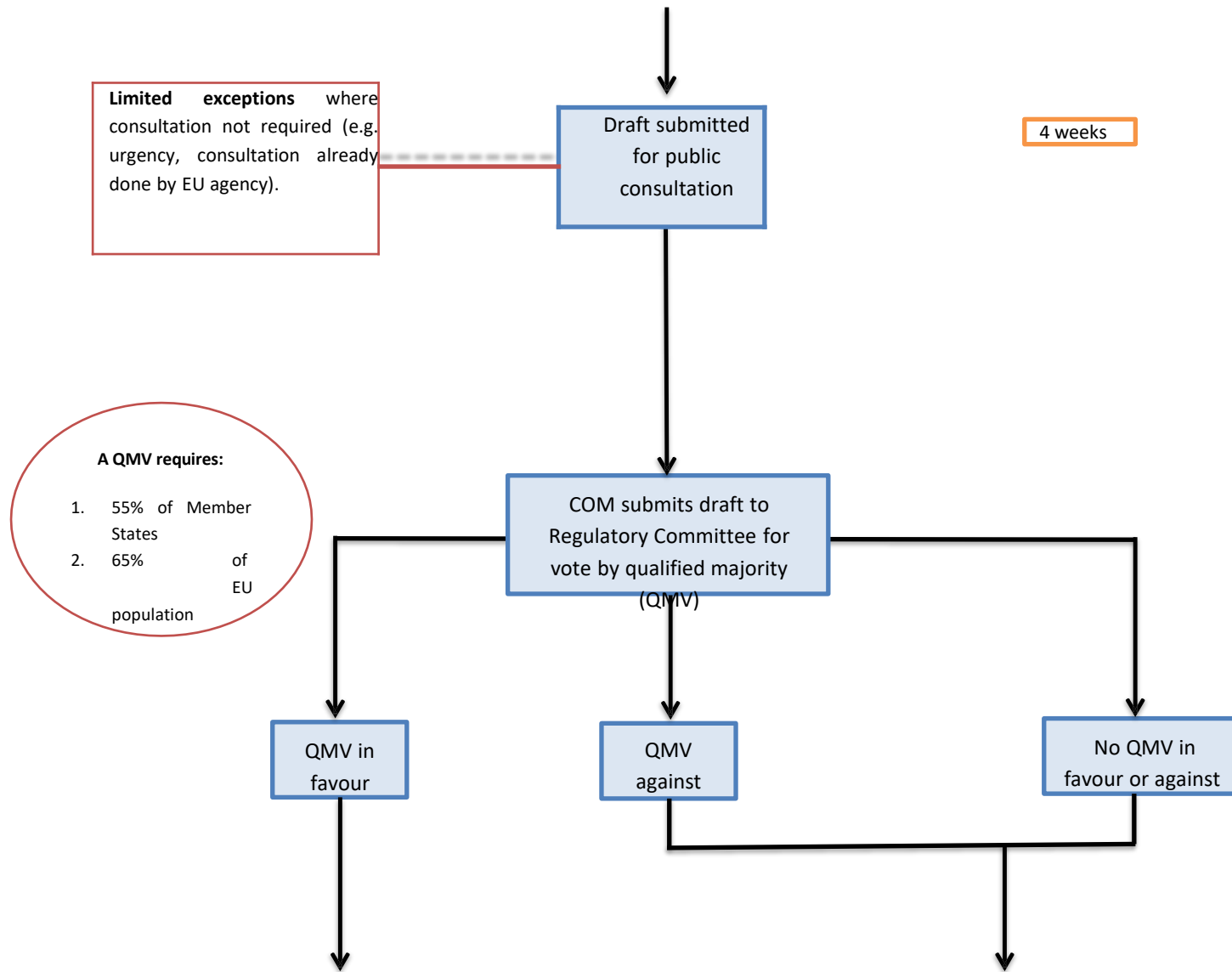


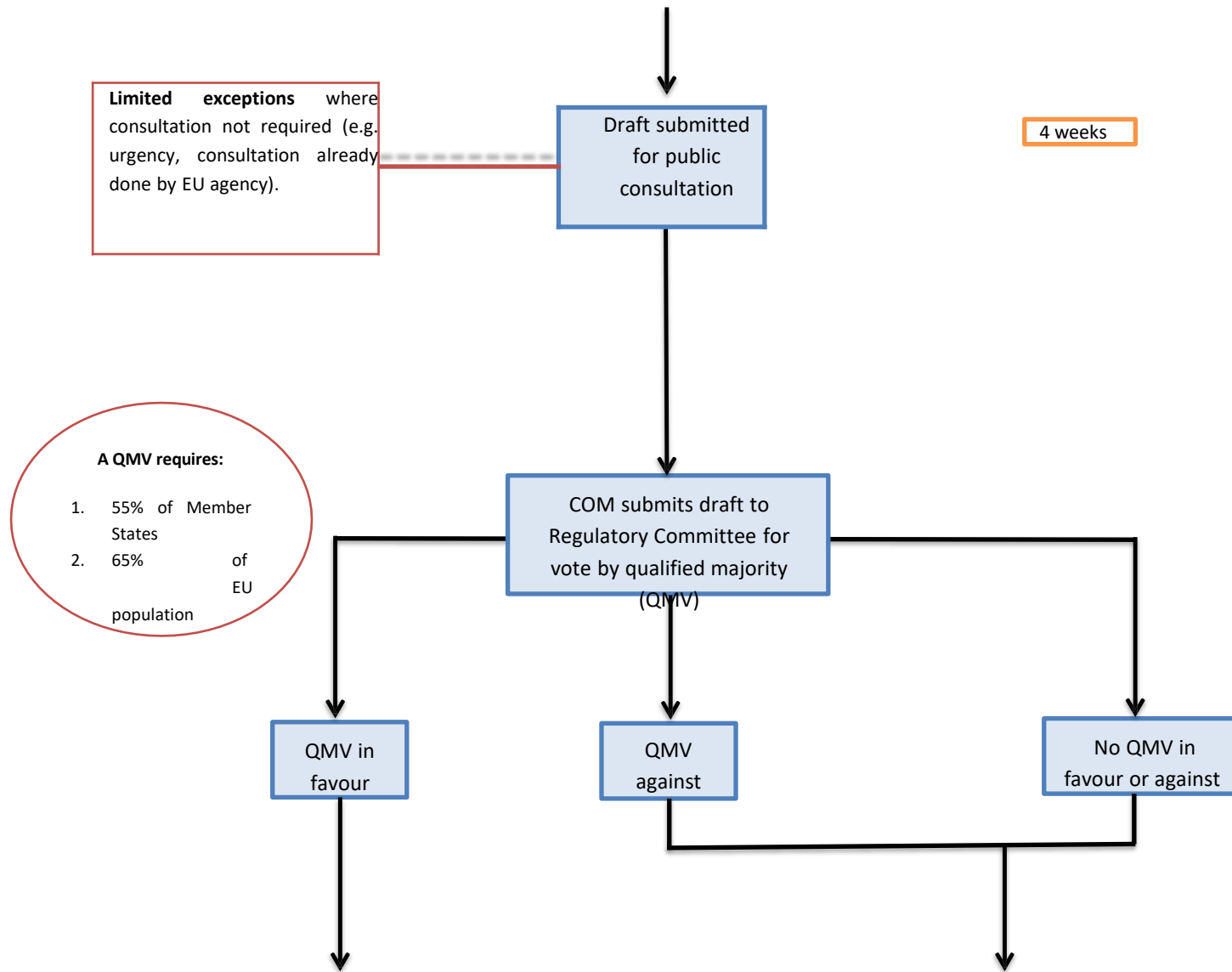
IA – Case Study – Lead sulfochromate yellow

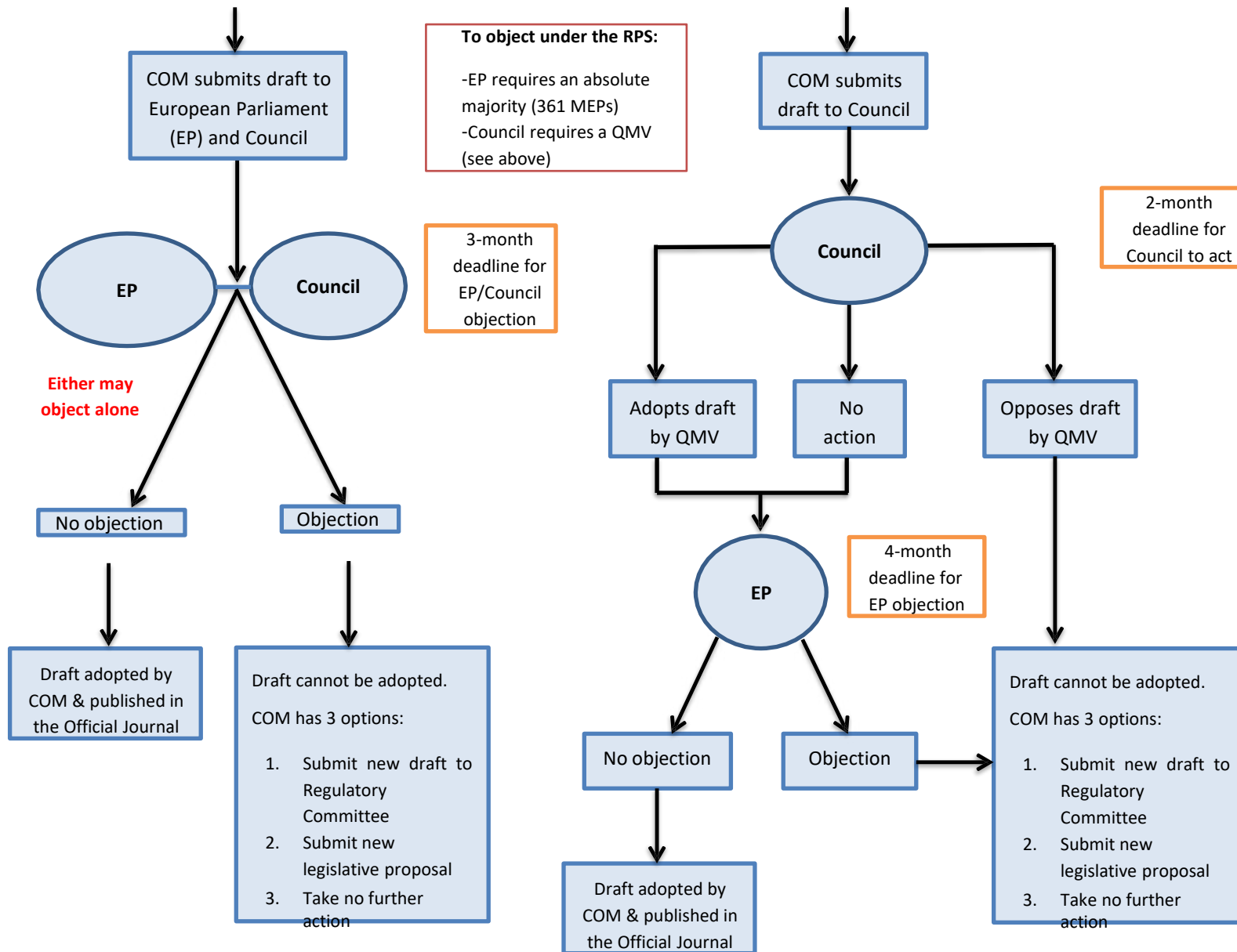
- Authorisation

- 14 February 2012: Added substance to Authorisation list
- November 2013: Manufacturer makes request for authorisation
- 28 November 2014: Draft RAC/SEAC Opinion sent to applicant
- 11 December 2014: RAC Opinion / SEAC Opinion adopted
- 7 July 2015: REACH Committee discuss application
- 22 September 2015: REACH Committee discuss application
- 7 July 2016: REACH Committee approve: 23 for, 3 against, 2 abstain.
- 7 September 2016: Decision on authorization C(2016) 5644 - REACH/16/3/0
- 14 September 2016: Authorisation published in Official Journal
- 7 March 2019: Case T-837/16, Sweden v. Commission. Court annuls decision

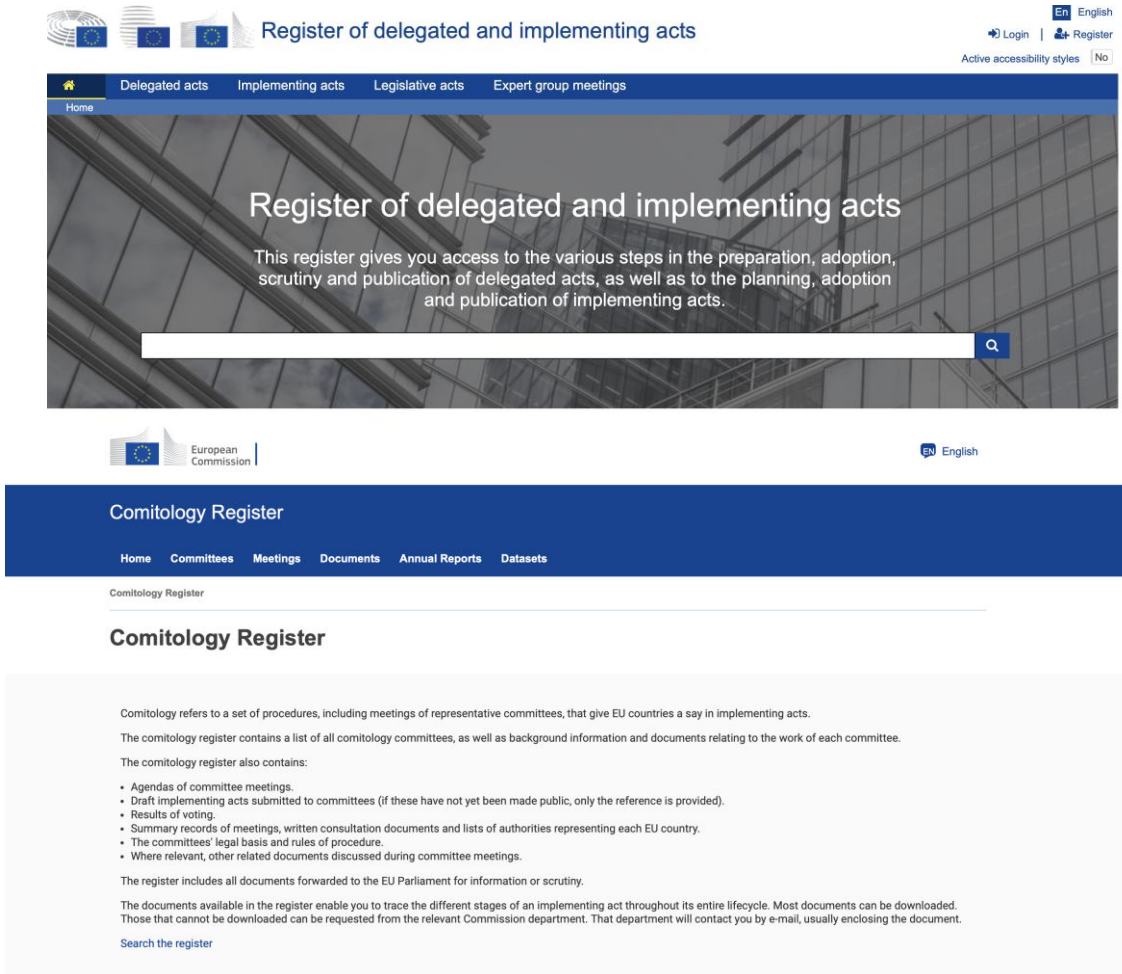
Votes against the Commission = ?







Monitoring



The screenshot displays the official website of the Register of delegated and implementing acts, managed by the European Commission. The top navigation bar includes links for 'Delegated acts', 'Implementing acts', 'Legislative acts', and 'Expert group meetings'. A search bar is prominently featured in the center of the page. Below the search bar, the 'Comitology Register' section is visible, which provides detailed information about the procedures and documents related to the implementation of EU laws. The page is designed with a clean, professional layout, using a blue and white color scheme.

Register of delegated and implementing acts

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European Commission

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[Search the register](#)

FiscalNote

Monitoring

FiscalNote

Some Definitions

Useful Tools:

- [Voting Calculator](#)
- [EU Matrix](#)

QMV needs

- 55% of Member States (at least 15 out of 27), and
- 65% of the population

A blocking Minority needs:

- 45% of Member States
- 35% of population

Simple Majority: At least 14 Member States

Super-qualified majority/ reinforced qualified majority:

- At least 72% of member states vote in favour – in practice this means at least 20 out of 27
- Member states supporting the proposal represent at least 65% of the EU population
- Unanimity. NB abstentions allowed.

EP

- Absolute majority in Plenary: 361 votes
- Simple Majority: Majority of members casting their vote

Sources

- Council Decision 2009/857
- Guidelines Delegated and Implementing Acts, November 2020
- Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC), Art.5(a)
- Handbook on the Ordinary Legislative procedure, European Parliament, September 2020
- Council of the European Union, Council's Rules of Procedure, 2009/937/EU