

DIRECCIÓN DE SERVICIOS DE INFORMACIÓN Y ANÁLISIS ESPECIALIZADOS  
SUBDIRECCIÓN DE REFERENCIA ESPECIALIZADA

# ALERTA HEMEROGRÁFICA

No. 409  
MAYO 2024



**Título:** *Delegating legislative powers to the European Commission: the threat of non-compliance with tertiary legislation in the member states.*

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### ABSTRACT:

When does the delegation of legislative powers to the executive endanger policy compliance? The European Union (EU) Lisbon Treaty introduced quasi-legislative tertiary legislation—delegated acts—which empowers the European Commission to amend secondary legislation. Formally, member states control delegated acts only ex post via a veto power in the Council, while they have both ex ante amendment powers and ex post veto over the alternative Commission legislation: implementing acts. However, as member states determine the choice of legislative instrument, we argue that they would consent to the Commission adopting delegated acts only on non-controversial issues. Such selection should result in their lower compliance with implementing than with delegated acts. Our analyses of member states' transposition delays and infringement cases related to EU tertiary directives support this argument. The results suggest that the delegation of legislative powers to the executive does not increase non-compliance when the legislators have the means to moderate it ex ante.

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