

Power of legislative delegation

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PURPOSE: Communication on delegated acts following entry into force of Article 290 of the Lisbon Treaty.

CONTENT: Article 290 of the Treaty on the Functioning of the European Union, as laid down in the Treaty of Lisbon allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Legal acts adopted by the Commission in this way are referred to in the terminology used by the new Treaty as "delegated acts" (Article 290(3)).

This provision does not require the adoption of any binding instrument of secondary legislation to ensure its implementation. It is sufficient in itself and contains all the elements required by the legislator for defining, case by case, the scope, content and practical arrangements for delegating power. However, the Commission believes it is useful and necessary to define the general framework within which such delegations of power should operate. The European Parliament, although stressing that this measure should preserve the freedom of the legislator, has reached a similar conclusion and has suggested that the institutions agree on a standard formula for delegations that would be regularly inserted by the Commission in the draft legislative act itself (see [INI/2008/2063](#)).

Without challenging the freedom of the European Parliament and the Council to set the limits and conditions of a delegation of powers at the point when a legislative act is adopted, the principles of better regulation and the smooth running of the interinstitutional process plead for a coordinated and coherent approach. Both the Commission, which is responsible for preparing and adopting delegated acts, and the European Parliament and Council, which are responsible for scrutinising them, should promote the introduction of a system that is as homogeneous and predictable as possible.

The purpose of this communication is to set out the Commission's views on the scope of the delegated acts, the framework for delegations of power, the working methods the Commission intends to use for preparing the adoption of delegated acts and, lastly, the conditions under which the legislator might exercise control over the way the powers conferred on the Commission are implemented.

In line with the ideas set out in the Communication, the Commission sets out several models for articles in future legislative acts conferring on it the power to adopt delegated acts in the Annex.