

Adapting a number of legal acts to Articles 290 and 291 TFEU (Commission delegated and implementing acts)

2016/0400B(COD) - 09/04/2019 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by József SZÁJER (EPP, HU) on the proposal for a regulation of the European Parliament and of the Council adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union.

As a reminder, Article 5a of Decision 1999/468/EC, as amended by Council Decision 2006/512/EC2, (the Comitology Decision), established the so-called regulatory procedure with scrutiny (RPS).

With the entry into force of the Treaty of Lisbon on 1st December 2009 and in light of the subsequent new legal framework for sub-secondary legislation established by Articles 290 and 291 TFEU, the Comitology Decision had to be revised.

However, Regulation 182/2011 (the new Comitology Regulation) intentionally left Article 5a of the Comitology Decision out of its scope. Article 5a establishing the RPS had therefore to be provisionally maintained for the purposes of existing basic acts referring to that Article. On the other hand, the *acquis* in question has to be aligned as soon as possible to the Treaty of Lisbon in order to ensure legal certainty.

In 2013, the Commission proposed to complete the alignment with three extensive proposals ([Omnibus I](#), [Omnibus II](#) and [Omnibus III](#)), which Parliament adopted in first reading in February 2014. However, the proposals were withdrawn by the new Commission following the European elections.

Following the entry into force of the [Inter-institutional Agreement](#) on Better Law-making (IIA) of 13 April 2016, the Commission presented two new proposals for alignment in December 2016, one focusing on legislative files in the area of justice and one focusing on the remaining policy areas. The two proposals cover 3 and 168 basic acts, respectively.

In general terms, the committee approved the present proposal which seeks to update many existing cases of RPS to delegated acts. On the other hand, it opposed those cases of alignment with implementing acts where they consider that the Commission proposal lacks a detailed and specific justification.

Members recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal on horizontal issues such as the wording of the empowerments (which has to be as precise as possible and in line with the recent case law) and the duration of the delegation of powers (which should not exceed 5 years and should be accompanied by a reporting obligation on the Commission to submit reports no later than nine months before the end of the five years).

Members also stated that bundling and presenting empowerments that are not closely linked with each other within a single Commission delegated act impedes the exercise of Parliament's right of scrutiny, as it is forced to simply accept or refuse the entire package, which leaves no room to express an opinion on each empowerment individually. The Commission shall not bundle multiple empowerments in a single delegated act.