

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

2016/0400A(COD) - 17/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 546 votes to 26, with 34 abstentions, a legislative resolution 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.

The Treaty of Lisbon substantially modified the legal framework governing the powers conferred on the Commission by the legislator, introducing a distinction between powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act (delegated acts), and the powers conferred on the Commission to adopt acts to ensure uniform conditions for implementing legally binding Union acts (implementing acts).

Legislative acts adopted before the entry into force of the Treaty of Lisbon confer powers on the Commission to adopt measures under the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC.

Earlier proposals relating to the alignment of legislation referring to the regulatory procedure with scrutiny with the legal framework introduced by the Treaty of Lisbon were withdrawn due to the stagnation of the interinstitutional negotiations.

The European Parliament, the Council and the Commission subsequently agreed on a new framework for delegated acts in the [Interinstitutional Agreement](#) of 13 April 2016 on Better Law-Making(6), and acknowledged the need to align all existing legislation to the legal framework introduced by the Treaty of Lisbon. In particular, they agreed on the need to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny.

The proposed Regulation aims to update many existing cases where the PRAC applies to develop them into delegated acts. Where implementing powers are conferred on the Commission, they would be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ("comitology" Regulation).

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal on cross-cutting issues.

In particular, it stipulates that the power to adopt delegated acts would be conferred on the Commission for a period of five years. The Commission should prepare a report on the delegation of authority no later than nine months before the end of the five-year period. The delegation of power would be tacitly extended for periods of the same duration, unless the European Parliament or the Council objects to such an extension no later than three months before the end of each period.

In a joint statement annexed to the legislative resolution, the Commission noted the choice of the legislators to provide for a limited duration for all the empowerments in which the regulatory procedure with scrutiny is aligned through this Regulation, coupled with a reporting obligation and tacit renewal of the empowerment. In particular in view of the high number of reports which would become due at regular

intervals of time and the fact that easily available information about the use of the empowerments is available through the Register of Delegated Acts, the Commission underlines that it has discretion about the way in which it will comply with the reporting obligation. Where appropriate, the Commission may therefore group reports due under several basic acts in one single document.