

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

2016/0400A(COD) - 25/07/2019 - Final act

PURPOSE: to align a number of legal acts to the Treaty on the Functioning of the European Union (Article 290 and 291, powers delegated to the Commission).

LEGISLATIVE ACT: Regulation (EU) 2019/1243 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.

CONTENT: this Regulation aligns 64 legislative acts referring to the so-called regulatory procedure with scrutiny (RPS) established by Article 5a of Council Decision 1999/468/EC with the Treaty of Lisbon.

The Treaty of Lisbon 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).

The European Parliament, the Council and the Commission subsequently agreed on a new framework for delegated acts in the [Interinstitutional Agreement](#) (IIA) of 13 April 2016 on Better Law-Making, 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 (RPS). The Commission has undertaken to prepare a proposal for such alignment by the end of 2016.

The adopted Regulation includes some of the acts that the Commission proposed for alignment in 2016. In the majority of cases, it replaces the regulatory procedure with scrutiny by references to delegated acts and in some cases by references to implementing acts.

The alignment clauses reflect the following points of the IIA of 13 April 2016:

- power to adopt delegated acts conferred on the Commission for a period of five years. The Commission shall 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 shall be tacitly extended for periods of the same duration, unless the European Parliament or the Council objects to such extension no later than three months before the end of each period;
- they now provide for a clear commitment to a systematic consultation of experts from the Member States in the preparation of delegated acts. This commitment is now explicitly included in the new standard clauses that are to be used in the drafting of empowerments for the Commission;
- they recognise the important role of early cooperation and exchange of views with the European Parliament in relation to delegated acts. The European Parliament must receive all documents at the same

time as Member State experts, including the draft delegated acts. The alignment clauses provide for systematic access of European Parliament experts to the meetings of Commission expert groups preparing delegated acts.

This Regulation should not affect pending procedures in which the committee has already delivered its opinion in accordance with Article 5a of Decision 1999/468/EC.

ENTRY INTO FORCE: 26.7.2019.