Basic information

2016/0399(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts) **Subject** 7.90 Justice and home affairs 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.50.02 Legislative simplification, coordination, codification	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	POSPÍŠIL Jiří (EPP)	18/03/2021
	Shadow rapporteur VOLLATH Bettina (S&D) DURAND Pascal (Renew) TOUSSAINT Marie (Greens/EFA) DZHAMBAZKI Angel (ECR) MAUREL Emmanuel (The Left)	

Former committee responsible	Former rapporteur	Appointed
JURI Legal Affairs	SZÁJER József (PPE)	12/01/2017

Council of the European Union

European Commission

Commission DG	Commissioner
Justice and Consumers	JOUROVÁ Věra

Key events

Date	Event	Reference	Summary
		COM(2016)0798	Summary

14/12/2016	Legislative proposal published		
16/03/2017	Committee referral announced in Parliament, 1st reading		
24/01/2018	Vote in committee, 1st reading		
24/01/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
30/01/2018	Committee report tabled for plenary, 1st reading	A8-0012/2018	Summary
05/02/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
07/02/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
17/04/2019	Decision by Parliament, 1st reading	T8-0411/2019	Summary
17/04/2019	Results of vote in Parliament		
09/01/2020	Committee decision to open interinstitutional negotiations after 1st reading in Parliament		
13/01/2020	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 73)		
02/06/2022	Approval in committee of the text agreed at early 2nd reading interinstitutional negotiations		
14/07/2022	Council position published	09279/1/2022	Summary
15/09/2022	Committee referral announced in Parliament, 2nd reading		
03/10/2022	Vote in committee, 2nd reading		
07/10/2022	Committee recommendation tabled for plenary, 2nd reading	A9-0237/2022	Summary
18/10/2022	Decision by Parliament, 2nd reading	T9-0358/2022	Summary
18/10/2022	Results of vote in Parliament		
19/10/2022	Final act signed		
25/10/2022	Final act published in Official Journal		

Technical information

Procedure reference	2016/0399(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 081-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/9/02172

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE613.398	13/11/2017	
Amendments tabled in committee		PE615.474	18/12/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0012/2018	30/01/2018	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0411/2019	17/04/2019	Summary
Committee draft report		PE736.604	21/09/2022	
Committee recommendation tabled for plenary, 2nd reading		A9-0237/2022	07/10/2022	Summary
Text adopted by Parliament, 2nd reading		T9-0358/2022	18/10/2022	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	09279/1/2022	14/07/2022	Summary
Draft final act	00055/2022/LEX	19/10/2022	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0798	14/12/2016	Summary
Commission response to text adopted in plenary	SP(2019)440	08/08/2019	
Commission communication on Council's position	COM(2022)0339	11/07/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2016)0798	27/04/2017	
Contribution	CZ_CHAMBER	COM(2016)0798	03/05/2017	
Contribution	IT_SENATE	COM(2016)0798	12/05/2017	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2022/2040
OJ L 275 25.10.2022, p. 0030

Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts)

2016/0399(COD) - 18/10/2022 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution **approving the Council's position at first reading** with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulation (EC) No 805/2004 as regards the use of the regulatory procedure with scrutiny in order to adapt it to Article 290 of the Treaty on the Functioning of the European Union.

The Council's position aims at adapting Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims to Article 290 of the Treaty on the Functioning of the European Union. The only provision of Regulation (EC) No 805/2004 that provides for the use of the regulatory procedure with scrutiny is amended to provide for the **use of delegated acts**.

The power to adopt delegated acts is conferred on the Commission for **renewable periods of five years**, with the obligation for the Commission to report, nine months before the expiry of each period, on the manner in which it has made use of this power.

An adopted delegated act will enter into force only if the European Parliament or the Council has not objected within **two months** of its notification to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission of their intention not to object. This period will be extended by two months at the initiative of the European Parliament or the Council.

Ireland has notified its wish to participate in the adoption and application of the Regulation. Denmark is not taking part in the adoption of the Regulation and is not bound by it or subject to its application.

Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts)

2016/0399(COD) - 14/07/2022 - Council position

The Council adopted its position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Regulation (EC) No 805/2004 as regards the use of the regulatory procedure with scrutiny in order to adapt it to Article 290 of the Treaty on the Functioning of the European Union.

The initial proposal aims at adapting three EU acts in the field of justice to Article 290 of the Treaty on the Functioning of the European Union, which still refer to the regulatory procedure with scrutiny.

The Council's position concerns **only the alignment of Regulation (EC) No 805/2004** creating a European Enforcement Order for uncontested claims. The other two acts, Council Regulation (EC) No 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters and Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, have in the meantime been repealed and are therefore not included in the final agreed text.

The only provision in Regulation (EC) No 805/2004 providing for the use of the regulatory procedure with scrutiny is amended to provide for the **use of delegated acts** to amend the annexes to update the standard forms.

The power to adopt delegated acts is conferred on the Commission for **renewable periods of five years**, with the obligation for the Commission to report, nine months before the expiry of each period, on how it has used the empowerment. The delegation of power referred to may be revoked at any time by the European Parliament or the Council.

An adopted delegated act will enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of **two months** of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object.

That period will be extended by two months at the initiative of the European Parliament or of the Council. The Council's position clarifies that Ireland has notified its wish to participate in the adoption and application of the Regulation. Denmark is not taking part in the adoption of the Regulation and is not bound by it or subject to its application.

Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts)

2016/0399(COD) - 07/10/2022 - Committee recommendation tabled for plenary, 2nd reading

The Committee on Legal Affairs adopted the recommendation for second reading contained in the report by Jiří POSPÍŠIL (EPP, CZ), on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council amending Regulation (EC) No 805 /2004 as regards the use of the regulatory procedure with scrutiny in order to adapt it to Article 290 of the Treaty on the Functioning of the European Union.

The committee responsible recommended that the plenary **approve the Council's position at first reading**, without amendment.

The Council position concerns the alignment of Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims. The only provision of Regulation (EC) No 805/2004 that provides for the use of the regulatory procedure with scrutiny is amended to provide for the use of delegated acts to amend the annexes in order to update the standard forms.

Parliament's prerogatives have been fully preserved through the replacement of the former regulatory procedure with scrutiny with a delegated act under Article 290 of the Treaty on the Functioning of the European Union.

Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts)

2016/0399(COD) - 14/12/2016 - Legislative proposal

PURPOSE: to adapt a number of legal acts in the area of justice to the Treaty on the Functioning of the European Union (Article 290, powers delegated to the Commission).

LEGISLATIVE ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : the Treaty of Lisbon introduced a distinction between the following:

- 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), as referred to in **Article 290** of the Treaty on the Functioning pf the EU; and
- powers conferred upon the Commission to adopt acts to ensure uniform conditions for implementing legally binding Union acts (implementing acts) as referred to in **Article 291** of the Treaty.

The measures which may be covered by delegations of powers correspond in principle to those covered by the **regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC.** This procedure still appears in the basic acts covered by this proposal and continues to apply in those acts until they are formally amended and adapted to the Lisbon Treaty.

The Commission made three horizontal alignment legislative proposals in 2013 (Omnibus I, Omnibus II and Omnibus III). The European Parliament adopted its legislative resolutions on 25 February 2014, broadly agreeing with the proposals by the Commission. The Council, however, **did not support** the Commission proposals, due to the absence of stronger guarantees that Member State experts would be systematically consulted in the preparation of delegated acts.

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

CONTENT: the proposal aligns three basic acts to Article 290 of the Treaty on the Functioning of the EU, these acts being:

- Council Regulation (EC) No 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters;
- Regulation (EC) No 805/2004 of the European Parliament and of the Council creating a European Enforcement Order for uncontested claims;
- Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation No 1348/2000.

The alignment clauses reflect the following points in the IAA:

- they now provide for a clear commitment to a **systematic consultation of experts from the Member States** in the preparation of delegated acts. This fulfils a key condition for a successful second attempt to align the old regulatory procedure with scrutiny provisions to the Lisbon Treaty. This commitment is now explicitly included in the **new standard clauses**;
- 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, and the alignment clauses provide for systematic access of European Parliament experts to the meetings of Commission expert groups preparing delegated acts.

Accordingly, to each basic act a number of amendments are made, and references to the regulatory procedure with scrutiny are deleted.

As regards the duration of the empowerment the Commission proposes **empowerments with an indeterminate duration**, since the legislator has the possibility of revoking an empowerment in all cases and at any time.

Acts on which individual legislative proposals have been made in the meantime are not included in the proposal. This concerns two acts in the area of justice:

- Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of creating a European order for payment procedure;
- Regulation (EC) No. 861/2007 establishing a European small claims procedure. These have been aligned in the meantime been aligned by Regulation (EU) 2015/2421.

This proposal is linked to the proposal on adapting a number of legal acts to Article 290 and 291 of the TFEU.

Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts)

2016/0399(COD) - 17/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 564 votes to 24, with 22 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council adapting a number of legal acts in the area of Justice providing for the use of the regulatory procedure with scrutiny to Article 290 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).

The proposed Regulation aims to adapt a series of basic instruments where the regulatory procedure with scrutiny (RPS) applies to make them evolve into delegated acts.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal to clarify that the power to adopt delegated acts would be 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 an extension no later than three months before the end of each period.

In a recital, Parliament pointed out that bundling and presenting empowerments that are not closely linked with each other within a single delegated act of the Commission impedes the exercise of Parliament's right of scrutiny, as it is forced to simply accept or refuse the entire delegated act, which leaves no room to express an opinion on each empowerment individually.

Adapting a number of legal acts in the area of justice to Article 290 TFEU (Commission delegated acts)

2016/0399(COD) - 30/01/2018 - 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 in the area of Justice providing for the use of the regulatory procedure with scrutiny to Article 290 of the Treaty on the Functioning of the European Union.

Members welcomed the Commission's proposal to adapt three basic acts where the regulatory procedure with scrutiny (RPS) applies in order to make them into delegated acts.

Building on Parliament's resolution of 25 February 2014, the report proposed to amend the Commission proposal to focus on the **duration of the delegation** of powers (which shall not exceed **five years** and shall be accompanied by a reporting obligation on the Commission).

In addition, the deadline to object to a delegated act shall be **three months** (and not two months as proposed by the Commission).