

Basic information	
<b>2016/0400A(COD)</b> COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Adapting a number of legal acts to Articles 290 and 291 TFEU (Commission delegated and implementing acts)	
<b>Subject</b> 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.50.02 Legislative simplification, coordination, codification	

Key players				
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>
	<b>JURI</b> Legal Affairs		SZÁJER József (PPE)	12/01/2017
			Shadow rapporteur KAUFMANN Sylvia-Yvonne (S&D) DZHAMBAZKI Angel (ECR) CAVADA Jean-Marie (ALDE) ROHDE Jens (ALDE) BOUTONNET Marie-Christine (ENF)	
	<b>Committee for opinion</b>		<b>Rapporteur for opinion</b>	<b>Appointed</b>
	<b>DEVE</b> Development		The committee decided not to give an opinion.	
	<b>INTA</b> International Trade		The committee decided not to give an opinion.	
	<b>ECON</b> Economic and Monetary Affairs		GUALTIERI Roberto (S&D)	24/01/2017
	<b>EMPL</b> Employment and Social Affairs		The committee decided not to give an opinion.	
	<b>ENVI</b> Environment, Public Health and Food Safety		VĂLEAN Adina (PPE)	31/01/2017

	<b>ITRE</b> Industry, Research and Energy	The committee decided not to give an opinion.	
	<b>IMCO</b> Internal Market and Consumer Protection	The committee decided not to give an opinion.	
	<b>TRAN</b> Transport and Tourism	<b>MAYER Georg (ENF)</b>	06/03/2017
	<b>REGI</b> Regional Development	The committee decided not to give an opinion.	
	<b>AGRI</b> Agriculture and Rural Development	<b>BUDA Daniel (PPE)</b>	15/02/2017
	<b>PECH</b> Fisheries	The committee decided not to give an opinion.	
	<b>CULT</b> Culture and Education	The committee decided not to give an opinion.	
	<b>FEMM</b> Women's Rights and Gender Equality	The committee decided not to give an opinion.	
	<b>Committee for opinion on the legal basis</b>	<b>Rapporteur for opinion</b>	<b>Appointed</b>
	<b>JURI</b> Legal Affairs	<b>LEBRETON Gilles (ENF)</b>	01/03/2019
Council of the European Union	<b>Council configuration</b>	<b>Meetings</b>	<b>Date</b>
	General Affairs	3552	2017-06-20
	General Affairs	3588	2017-12-12
	Employment, Social Policy, Health and Consumer Affairs	3699	2019-06-14
European Commission	<b>Commission DG</b>	<b>Commissioner</b>	
	Justice and Consumers	JOUROVÁ Věra	
European Economic and Social Committee			
European Committee of the Regions			
<b>Key events</b>			

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Date	Event	Reference	Summary
14/12/2016	Legislative proposal published	COM(2016)0799 	Summary
13/03/2017	Committee referral announced in Parliament, 1st reading		
20/06/2017	Debate in Council		
12/12/2017	Debate in Council		
24/01/2018	Vote in committee, 1st reading		
24/01/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
02/02/2018	Committee report tabled for plenary, 1st reading	A8-0020/2018	Summary
05/02/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
07/02/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
04/03/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE637.327 GEDA/A/(2019)001917	
17/04/2019	Decision by Parliament, 1st reading	T8-0410/2019	Summary
17/04/2019	Results of vote in Parliament		
14/06/2019	Act adopted by Council after Parliament's 1st reading		
20/06/2019	Final act signed		
20/06/2019	End of procedure in Parliament		
25/07/2019	Final act published in Official Journal		

Technical information	
Procedure reference	2016/0400A(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 114 Treaty on the Functioning of the European Union TFEU 172 Treaty on the Functioning of the European Union TFEU 191 Treaty on the Functioning of the European Union TFEU 214-p3 Treaty on the Functioning of the European Union TFEU 053-p1 Treaty on the Functioning of the European Union TFEU 091 Treaty on the Functioning of the European Union TFEU 062 Treaty on the Functioning of the European Union TFEU 153-p2 Treaty on the Functioning of the European Union TFEU 207 Treaty on the Functioning of the European Union TFEU 100-p2 Treaty on the Functioning of the European Union TFEU 168-p4 Treaty on the Functioning of the European Union TFEU 338-p1 Treaty on the Functioning of the European Union TFEU 043-p2 Treaty on the Functioning of the European Union TFEU 064-p2
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a> <a href="#">European Committee of the Regions</a>

Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/08809

Documentation gateway				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee opinion	AGRI	PE604.881	31/08/2017	
Committee opinion	ECON	PE610.694	26/09/2017	
Committee opinion	TRAN	PE604.743	27/09/2017	
Committee opinion	ENVI	PE610.774	29/09/2017	
Committee draft report		PE612.228	05/12/2017	
Amendments tabled in committee		PE615.472	19/12/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0020/2018	02/02/2018	Summary
Text agreed during interinstitutional negotiations		PE637.327	27/02/2019	
Specific opinion	JURI	PE637.500	03/04/2019	
Text adopted by Parliament, 1st reading/single reading		T8-0410/2019	17/04/2019	Summary
<b>Council of the EU</b>				
Document type		Reference	Date	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A/(2019)001917	27/02/2019	
Draft final act		00065/2019/LEX	20/06/2019	
<b>European Commission</b>				
Document type		Reference	Date	Summary
Legislative proposal		COM(2016)0799	14/12/2016	Summary
<b>Other institutions and bodies</b>				
Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0758/2017	01/06/2017	
CofR	Committee of the Regions: opinion	CDR2776/2017	01/12/2017	

Additional information		
Source	Document	Date

## Final act

Regulation 2019/1243  
OJ L 198 25.07.2019, p. 0241

[Summary](#)

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

2016/0400A(COD) - 14/12/2016 - Legislative proposal

**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 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 of 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:** this proposal concerns **170 basic acts**. The Commission proposes to amend each of these basic acts set out in the proposal in order to adapt the acts in question to the Lisbon Treaty. The scope of the proposal broadly covers the legal acts covered in the three Omnibus legislative alignment proposals adopted by the Commission in 2013. Acts on which individual legislative proposals have been made in the meantime are not included in the present proposal.

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** 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.

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

This proposal does not concern eight pieces of legislation in the area of pesticides and food, since the Commission is reflecting on whether there is a more appropriate way to structure these acts.

**Delegate or implementing acts:** as regards the choice between delegated and implementing acts, the 2013 alignment proposals started from the assumption that the measures covered by the regulatory procedure with scrutiny in principle correspond to those which can be covered by delegations of power as referred to in Article 290 TFEU. Only in a few cases in Omnibus III was the alignment to Article 291 instead of Article 290 proposed.

The general assumption underlying the new proposal is that the assessment made in the 2013 Omnibus proposals remains valid. Neither the negotiations on the 2013 Omnibus, nor the case-law on the topic, nor the outcome of the Interinstitutional Agreement on Better Law-Making resulted in new criteria that would have called for a global reassessment.

Lastly, it should be noted that the IAA envisages that the Commission may be invited to meetings in the European Parliament (or the Council) in order to have further exchange of views in the preparation of delegated acts.

This proposal is linked to [the proposal](#) on adapting a number of legal acts in the area of justice to Article 290 TFEU.

## **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.

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

2016/0400A(COD) - 02/02/2018 - 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 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.

## **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.