






# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Awaiting Council's 1st reading position
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
	 <a href="#">Legal Affairs</a>	PPE <a href="#">SZÁJER József</a>	12/01/2017
		Shadow rapporteur	
		 <a href="#">VOLLATH Bettina</a>	
		 <a href="#">DURAND Pascal</a>	
		 <a href="#">DZHAMBAZKI Angel</a>	
	Former committee responsible		
	 Legal Affairs	PPE <a href="#">SZÁJER József</a>	12/01/2017
Council of the European Union			
European Commission	Commission DG <a href="#">Justice and Consumers</a>	Commissioner JOUROVÁ Věra	

Key events			
14/12/2016	Legislative proposal published	<a href="#">COM(2016)0798</a>	Summary
16/03/2017	Committee referral announced in Parliament, 1st reading/single reading		
24/01/2018	Vote in committee, 1st reading/single 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/single reading	<a href="#">A8-0012/2018</a>	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)		
17/04/2019	Results of vote in Parliament		
17/04/2019	Decision by Parliament, 1st reading/single reading	<a href="#">T8-0411/2019</a>	Summary
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 72)		

### 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 EU TFEU 081-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Awaiting Council's 1st reading position
Committee dossier	JURI/8/08779

### Documentation gateway

Legislative proposal	<a href="#">COM(2016)0798</a>	14/12/2016	EC	Summary
Committee draft report	<a href="#">PE613.398</a>	13/11/2017	EP	
Amendments tabled in committee	<a href="#">PE615.474</a>	18/12/2017	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0012/2018</a>	30/01/2018	EP	Summary
Text adopted by Parliament, 1st reading/single reading	<a href="#">T8-0411/2019</a>	17/04/2019	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2019)440</a>	08/08/2019	EC	

## 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 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: 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.

## 2016/0399(COD) - 30/01/2018 Committee report tabled for plenary, 1st reading/single reading

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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 Commissions proposal to adapt three basic acts where the regulatory procedure with scrutiny (RPS) applies in order to make them into delegated acts.

Building on Parliaments [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).

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

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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 Parliaments 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.