



Council of the
European Union

Brussels, 27 February 2017
(OR. en)

6687/17

Interinstitutional File:
2017/0039 (APP)

JURINFO 8
INF 25
JUR 103

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	23 February 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 87 final
Subject:	Proposal for a Council Regulation amending Regulation (EU) No 216/2013 on the electronic publication of the Official Journal of the European Union

Delegations will find attached document COM(2017) 87 final.

Encl.: COM(2017) 87 final



EUROPEAN
COMMISSION

Brussels, 23.2.2017
COM(2017) 87 final

2017/0039 (APP)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EU) No 216/2013 on the electronic publication of the Official
Journal of the European Union**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Pursuant to Regulation (EU) No 216/2013¹, the Official Journal of the European Union is published in electronic form. In order to guarantee the authenticity, integrity and inalterability of this electronic publication, Article 2(1) of this Regulation states that ‘the electronic edition... shall bear an advanced electronic signature based on a qualified certificate and created with a secure-signature-creation device, in accordance with Directive 1999/93/EC’.

Directive 1999/93/EC of 13 December 1999 on a Community framework for electronic signatures was repealed by Regulation (EU) No 910/2014 of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market², which came into force on 1 July 2016. In addition to the electronic signature and the advanced electronic signature already provided for by Directive 1999/93, Regulation No 910/2014 introduced the possibility of authenticating a document with an electronic seal or an advanced electronic seal based on a certificate for an electronic seal. The main difference between the (advanced) electronic signature and the (advanced) electronic seal is that, in the former case, the signatory is a natural person (Article 3, points 9 and 14 of Regulation No 910/2014), whereas in the latter case, the signatory is a legal person (Article 3, points 24 and 29 of Regulation No 910/2014).

The use of this advanced electronic seal would make it possible to automate the electronic signature and accelerate the procedure for publication on EUR-Lex.

Since authentication by an electronic seal rather than an electronic signature is not merely a different electronic system but makes an actual difference in legal terms (in the case of a signature, the authentication method is based on the involvement of a specific natural person; where a seal is used, it is created by the legal person with no indication of who, within the legal person, was responsible for authenticating the document), Regulation No 216/2013 should be amended to allow the Official Journal to be authenticated by an advanced electronic seal.

¹ Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the Official Journal of the European Union (OJ L 69, 13.3.2013, p. 1).

² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- **Consistency with existing policy provisions in the policy area**

The purpose of the proposed amendment is to introduce, for the electronic publication of the Official Journal, the option - offered by Regulation No 910/2014 on electronic identification and trust services for electronic transactions in the internal market - of authenticating a document by an electronic seal.

- **Consistency with other Union policies**

N/A

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The Proposal for a Regulation is based on Article 352 TFEU. This is the legal basis for Regulation No 216/2013, which is proposed for amendment.

- **Subsidiarity (for non-exclusive competence)**

N/A

- **Proportionality**

The aim of the Proposal is to allow the Official Journal to be published more quickly. The introduction of authentication by electronic seal is what is required to achieve this aim.

- **Choice of instrument**

N/A

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

At the meeting of the Management Committee of the Publications Office held on 20 November 2015, the Institutions spoke in favour of this amendment to the Regulation.

- **Collection and use of expertise**

N/A

- **Impact assessment**

Since the change is minor, no impact assessment was carried out.

- **Regulatory fitness and simplification**

Replacing the advanced electronic signature by an advanced electronic seal does not alter current technological options in any way.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

See financial statement annexed

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Implementation is scheduled for late 2017/early 2018.

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

N/A

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 216/2013 on the electronic publication of the Official Journal of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

having regard to the Treaty on the Functioning of the European Union, and in particular Article 352 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the consent of the European Parliament,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Regulation (EU) No 216/2013³ provides that the electronic edition of the Official Journal shall bear an advanced electronic signature based on a qualified certificate and created with a secure-signature-creation device, in accordance with Directive 1999/93/EC.
- (2) Regulation (EU) No 910/2014 of the European Parliament and of the Council⁴ lays down a legal framework for electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic registered delivery services and certificates for website authentication.
- (3) Authentication by electronic seal offers the same guarantees as those provided by electronic signature. The use of an electronic seal to authenticate the Official Journal would accelerate the procedure for the publication of the Official Journal on the EUR-Lex website.
- (4) Regulation (EU) No 216/2013 should therefore be amended,

³ Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the Official Journal of the European Union (OJ L 69, 13.3.2013, p. 1).

⁴ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 216/2013 is amended as follows:

Article 2(1) is replaced by the following:

‘1. The electronic edition of the Official Journal shall bear an advanced electronic signature based on a qualified certificate and created with a secure-signature-creation device, in accordance with Regulation (EU) No 910/2014 of the European Parliament and of the Council*, or an advanced electronic seal, based on a qualified certificate, in accordance with the same Regulation. Qualified certificates and renewals thereof are published on the EUR-Lex website to allow the public to verify the advanced electronic signature or advanced electronic seal and the authenticity of the electronic edition of the Official Journal.

* Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73). ‘

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. Summary of estimated impact on expenditure*
 - 3.2.2. Estimated impact on operational appropriations*
 - 3.2.3. Estimated impact on appropriations of an administrative nature*
 - 3.2.4. Compatibility with the current multiannual financial framework*
 - 3.2.5. Third-party contributions*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Council Regulation amending Regulation (EU) No 216/2013 on the electronic publication of the Official Journal of the European Union.

1.2. Policy area(s) concerned in the ABM/ABB structure⁵

26. Administrative

1.3. Nature of the proposal/initiative

☐ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to a **new action following a pilot project/preparatory action**⁶

☐ The proposal/initiative relates to **the extension of an existing action**

X The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

<u>Specific objective No</u>

<u>ABM/ABB activity(ies) concerned:</u>

⁵ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.
⁶ As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The use of the advanced electronic seal will make it possible to automate electronic signatures and accelerate the procedure for publication on EUR-Lex.

The signature will no longer be that of a named official but a recognised body of the European Union, i.e. the Publications Office.

1.4.4. Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

Time of publication of the Official Journal on EUR-Lex
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1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term

Automated authentication of the Official Journal
--

1.5.2. Added value of EU involvement

Acceleration of the procedure for the publication of the Official Journal on EUR-Lex
--

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility and possible synergy with other appropriate instruments

eIDAS

1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

X Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from late 2017 to 2018,
- followed by full-scale operation.

1.7. Management mode(s) planned⁷

X **Direct management** by the Commission

- X by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- ☐ the EIB and the European Investment Fund;
- ☐ bodies referred to in Articles 208 and 209 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

⁷ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.htm

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Daily monitoring of the publication time of the Official Journal.

2.2. Management and control system

2.2.1. Risk(s) identified

General risks related to IT systems

2.2.2. Information concerning the internal control system set up

Publications Office budget control procedure
--

Publications Office ICS system

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

N/A

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

N/A

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [...][Heading.....]	Diff./Non-diff. (8)	from EFTA countries ⁹	from candidate countries ¹⁰	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
5	[26 01 11][Official Journal of the European Union (L&C)]	Non-differentiated appropriations	NO	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [...][Heading.....]	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[...][XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

⁸ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

⁹ EFTA: European Free Trade Association.

¹⁰ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework:	Number	[...][Heading]
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DG: <.....>			Year N ¹¹	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
• Operational appropriations										
Number of budget line	Commitments	(1)								
	Payments	(2)								
Number of budget line	Commitments	(1a)								
	Payments	(2a)								
Appropriations of an administrative nature financed from the envelope of specific programmes ¹²										

¹¹ Year N is the year in which implementation of the proposal/initiative starts.

¹² Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former ‘BA’ lines), indirect research, direct research.

Number of budget line		(3)								
TOTAL appropriations for DG <.....>	Commitments	=1+1a +3								
	Payments	=2+2a +3	N/A							N/A

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADING <....> of the multiannual financial framework	Commitments	=4+ 6								
	Payments	=5+ 6								

If more than one heading is affected by the proposal / initiative:

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)								
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6								
	Payments	=5+ 6								

Heading of multiannual financial framework:	5	‘Administrative expenditure’
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EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: <.....>									
• Human resources									
• Other administrative expenditure									
TOTAL DG <.....>	Appropriations								

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = total payments)	N/A							N/A
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EUR million (to three decimal places)

		Year N ¹³	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	N/A							N/A
	Payments	N/A							N/A

¹³ Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. Estimated impact on operational appropriations

- ☒ The proposal/initiative does not require the use of operational appropriations
- ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
	Type ¹⁴	Average cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Total No	Total cost
SPECIFIC OBJECTIVE NO 1 ¹⁵ ...																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTAL COST																		

¹⁴ Outputs are products and services to be supplied (e.g. number of student exchanges financed, number of km of roads built, etc.).

¹⁵ As described in point 1.4.2. 'Specific objective(s)...'

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- ☒ X The proposal/initiative does not require the use of appropriations of an administrative nature
- ☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year N ¹⁶	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure						-		
Subtotal HEADING 5 of the multiannual financial framework			-					
Outside HEADING 5¹⁷ of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								
TOTAL								

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

¹⁶ Year N is the year in which implementation of the proposal/initiative starts.

¹⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

- ☒ The proposal/initiative does not require the use of human resources.
- ☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
• Establishment plan posts (officials and temporary staff)							
XX 01 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
XX 01 05 01 (Indirect research)							
10 01 05 01 (Direct research)							
• External staff (in Full Time Equivalent unit: FTE)¹⁸							
XX 01 02 01 (AC, END, INT from the 'global envelope')							
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)							
XX 01 04 yy¹⁹	- at Headquarters						
	- in Delegations						
XX 01 05 02 (AC, END, INT - Indirect research)							
10 01 05 02 (AC, END, INT - Direct research)							
Other budget lines (specify)							
TOTAL							

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which

¹⁸ AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JED = Junior Experts in Delegations.

¹⁹ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines)

may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External personnel	

3.2.4. *Compatibility with the current multiannual financial framework*

- ☒ The proposal/initiative is compatible the current multiannual financial framework.
- ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

- X The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ²⁰						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

For miscellaneous ‘assigned’ revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

²⁰ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.