



Council of the  
European Union

Brussels, 26 February 2016  
(OR. en)

15506/15

INST 449  
POLGEN 184  
JUR 811  
IA 25  
CODEC 1764

**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: INTERINSTITUTIONAL AGREEMENT on better law-making

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# INTERINSTITUTIONAL AGREEMENT

of

**on better law-making**

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE  
EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 295  
thereof,

Whereas:

- (1) The European Parliament, the Council and the Commission ('the three Institutions') are committed to sincere and transparent cooperation throughout the entire legislative cycle. In this context, they recall the equality of both co-legislators as enshrined in the Treaties.
- (2) The three Institutions recognise their joint responsibility in delivering high-quality Union legislation and in ensuring that such legislation focuses on areas where it has the greatest added value for European citizens, is as efficient and effective as possible in delivering the common policy objectives of the Union, is as simple and as clear as possible, avoids overregulation and administrative burdens for citizens, administrations and businesses, especially small and medium-sized enterprises ('SMEs'), and is designed with a view to facilitating its transposition and practical application and to strengthening the competitiveness and sustainability of the Union economy.
- (3) The three Institutions recall the Union obligation to legislate only where and to the extent necessary, in accordance with Article 5 of the Treaty on European Union on the principles of subsidiarity and proportionality.

- (4) The three Institutions reiterate the role and responsibility of national Parliaments as laid down in the Treaties, in Protocol No 1 on the role of National Parliaments in the European Union annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community and in Protocol No 2 on the application of the principles of subsidiarity and proportionality, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union .
- (5) The three Institutions agree that the analysis of the potential 'European added value' of any proposed Union action, as well as an assessment of the 'cost of non-Europe' in the absence of action at Union level, should be fully taken into account when setting the legislative agenda.
- (6) The three Institutions consider that public and stakeholder consultation, ex-post evaluation of existing legislation and impact assessments of new initiatives will help achieve the objective of better law-making.
- (7) With a view to facilitating the negotiations in the framework of the ordinary legislative procedure and improving the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union, this Agreement establishes the principles in accordance with which the Commission will gather all necessary expertise prior to adopting delegated acts.

- (8) The three Institutions affirm that the goals of simplifying Union legislation and reducing the regulatory burden should be pursued without prejudice to the achievement of the policy objectives of the Union, as specified in the Treaties, or to safeguarding the integrity of the internal market.
- (9) This Agreement complements the following agreements and declarations on better law-making, to which the three Institutions remain fully committed:
- Interinstitutional Agreement of 20 December 1994 –Accelerated working method for official codification of legislative texts<sup>1</sup>;
  - Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation<sup>2</sup>;
  - Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>3</sup>;
  - Joint Declaration of 13 June 2007 on practical arrangements for the codecision procedure<sup>4</sup>;
  - Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents<sup>5</sup>,

HAVE AGREED AS FOLLOWS:

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<sup>1</sup> OJ C 102, 4.4.1996, p. 2.  
<sup>2</sup> OJ C 73, 17.3.1999, p. 1.  
<sup>3</sup> OJ C 77, 28.3.2002, p. 1.  
<sup>4</sup> OJ C 145, 30.6.2007, p. 5.  
<sup>5</sup> OJ C 369, 17.12.2011, p. 15.

## I. COMMON COMMITMENTS AND OBJECTIVES

1. The three Institutions hereby agree to pursue better law-making by means of a series of initiatives and procedures, as set out in this Agreement.
2. In exercising their powers and in compliance with the procedures laid down in the Treaties, and recalling the importance which they attach to the Community method, the three Institutions agree to observe general principles of Union law, such as democratic legitimacy, subsidiarity and proportionality, and legal certainty. They further agree to promote simplicity, clarity and consistency in the drafting of Union legislation and to promote the utmost transparency of the legislative process.
3. The three Institutions agree that Union legislation should be comprehensible and clear, allow citizens, administrations and businesses to easily understand their rights and obligations, include appropriate reporting, monitoring and evaluation requirements, avoid overregulation and administrative burdens, and be practical to implement.

## II. PROGRAMMING

4. The three Institutions agree to reinforce the Union's annual and multiannual programming in line with Article 17(1) of the Treaty on European Union, which entrusts the Commission with the task of initiating annual and multiannual programming.

## **Multiannual programming**

5. Upon the appointment of a new Commission, in order to facilitate longer-term planning, the three Institutions will exchange views on the principal policy objectives and priorities of the three Institutions for the new term as well as, wherever possible, on indicative timing.

The three Institutions will, on the Commission's initiative and as appropriate, draw up joint conclusions to be signed by the Presidents of the three Institutions.

The three Institutions will, on the Commission's initiative, carry out a mid-term review of those joint conclusions and adjust them as appropriate.

## **Annual programming – Commission Work Programme and interinstitutional programming**

6. The Commission will engage in a dialogue with the European Parliament and the Council respectively, both before and after the adoption of its annual Work Programme ('the Commission Work Programme'). That dialogue will encompass the following:
  - (a) early bilateral exchanges of views on initiatives for the upcoming year will take place in advance of the submission of a written contribution from the President of the Commission and its First Vice-President setting out in appropriate detail items of major political importance for the following year and containing indications with regard to intended withdrawals of Commission proposals-('letter of intent');

- (b) following the debate on the State of the Union, and before the adoption of the Commission Work Programme, the European Parliament and the Council will have an exchange of views with the Commission on the basis of the letter of intent;
- (c) an exchange of views will take place between the three Institutions on the adopted Commission Work Programme, pursuant to paragraph 7.

The Commission will duly take account of the views expressed by the European Parliament and the Council at each stage of the dialogue, including their requests for initiatives.

7. Following the adoption of the Commission Work Programme and drawing on it, the three Institutions will exchange views on initiatives for the coming year and agree on a joint declaration on annual interinstitutional programming ('joint declaration'), to be signed by the Presidents of the three Institutions. The joint declaration will set out broad objectives and priorities for the following year and will identify items of major political importance which, without prejudice to the powers conferred by the Treaties on the co-legislators, should receive priority treatment in the legislative process.

The three Institutions will monitor, on a regular basis throughout the year, the implementation of the joint declaration. To that end, the three Institutions will participate in debates on the implementation of the joint declaration in the European Parliament and/or the Council during the spring of the year in question.



8. The Commission Work Programme will include major legislative and non-legislative proposals for the following year, including repeals, recasts, simplifications and withdrawals. For each item, the Commission Work Programme will indicate the following, as far as available: the intended legal basis; the type of legal act; an indicative timetable for adoption by the Commission; and any other relevant procedural information, including information concerning impact assessment and evaluation work.
9. In accordance with the principles of sincere cooperation and of institutional balance, when the Commission intends to withdraw a legislative proposal, whether or not such withdrawal is to be followed by a revised proposal, it will provide the reasons for such withdrawal, and, if applicable, an indication of the intended subsequent steps along with a precise timetable, and will conduct proper interinstitutional consultations on that basis. The Commission will take due account of, and respond to, the co-legislators' positions.
10. The Commission will give prompt and detailed consideration to requests for proposals for Union acts made by the European Parliament or the Council pursuant to Article 225 or Article 241 of the Treaty on the Functioning of the European Union respectively.

The Commission will reply to such requests within three months, stating the follow-up it intends to give to them by adopting a specific communication. If the Commission decides not to submit a proposal in response to such a request, it will inform the institution concerned of the detailed reasons, and will provide, where appropriate, an analysis of possible alternatives and respond to any issues raised by the co-legislators in relation to analyses concerning 'European added value' and concerning the 'cost of non-Europe'.

If so requested, the Commission will present its reply in the European Parliament or in the Council.

11. The Commission will provide regular updates on its planning throughout the year and give reasons for any delay in the presentation of the proposals included in its Work Programme. The Commission will regularly report to the European Parliament and to the Council on the implementation of its Work Programme for the year in question.

### III. TOOLS FOR BETTER LAW-MAKING

#### **Impact assessment**

12. The three Institutions agree on the positive contribution of impact assessments in improving the quality of Union legislation.

Impact assessments are a tool to help the three Institutions reach well-informed decisions and not a substitute for political decisions within the democratic decision-making process. Impact assessments must not lead to undue delays in the law-making process or prejudice the co-legislators' capacity to propose amendments.

Impact assessments should cover the existence, scale and consequences of a problem and the question whether or not Union action is needed. They should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses. The principles of subsidiarity and proportionality should be fully respected, as should fundamental rights. Impact assessments should also address, whenever possible, the 'cost of non-Europe' and the impact on competitiveness and the administrative burdens of the different options, having particular regard to SMEs ('Think Small First'), digital aspects and territorial impact. Impact assessments should be based on accurate, objective and complete information and should be proportionate as regards their scope and focus.

13. The Commission will carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental or social impacts. The initiatives included in the Commission Work Programme or in the joint declaration will, as a general rule, be accompanied by an impact assessment.

In its own impact assessment process, the Commission will consult as widely as possible. The Commission's Regulatory Scrutiny Board will carry out an objective quality check of its impact assessments. The final results of the impact assessments will be made available to the European Parliament, the Council and national Parliaments, and will be made public along with the opinion(s) of the Regulatory Scrutiny Board at the time of adoption of the Commission initiative.

14. The European Parliament and the Council, upon considering Commission legislative proposals, will take full account of the Commission's impact assessments. To that end, impact assessments shall be presented in such a way as to facilitate the consideration by the European Parliament and the Council of the choices made by the Commission.
15. The European Parliament and the Council will, when they consider this to be appropriate and necessary for the legislative process, carry out impact assessments in relation to their substantial amendments to the Commission's proposal. The European Parliament and the Council will, as a general rule, take the Commission's impact assessment as the starting point for their further work. The definition of a 'substantial' amendment should be for the respective Institution to determine.
16. The Commission may, on its own initiative or upon invitation by the European Parliament or the Council, complement its own impact assessment or undertake other analytical work it considers necessary. When doing so, the Commission will take into account all available information, the stage reached in the legislative process and the need to avoid undue delays in that process. The co-legislators will take full account of any additional elements provided by the Commission in that context.
17. Each of the three Institutions is responsible for determining how to organise its impact assessment work, including internal organisational resources and quality control. They will, on a regular basis, cooperate by exchanging information on best practice and methodologies relating to impact assessments, enabling each Institution to further improve its own methodology and procedures and the coherence of the overall impact assessment work.

18. The Commission's initial impact assessment and any additional impact assessment work conducted during the legislative process by the Institutions will be made public by the end of the legislative process and, taken together, can be used as the basis for evaluation.

#### **Public and stakeholder consultation and feedback**

19. Public and stakeholder consultation is integral to well-informed decision-making and to improving the quality of law-making. Without prejudice to the specific arrangements applying to the Commission's proposals under Article 155(2) of the Treaty on the Functioning of the European Union, the Commission will, before adopting a proposal, conduct public consultations in an open and transparent way, ensuring that the modalities and time-limits of those public consultations allow for the widest possible participation. The Commission will in particular encourage the direct participation of SMEs and other end-users in the consultations. This will include public internet-based consultations. The results of public and stakeholder consultations shall be communicated without delay to both co-legislators and made public.

#### **Ex-post evaluation of existing legislation**

20. The three Institutions confirm the importance of the greatest possible consistency and coherence in organising their work to evaluate the performance of Union legislation, including related public and stakeholder consultations.

21. The Commission will inform the European Parliament and the Council of its multiannual planning of evaluations of existing legislation and will, to the extent possible, include in that planning their requests for in-depth evaluation of specific policy areas or legal acts.

The Commission's evaluation planning will respect the timing for reports and reviews set out in Union legislation.

22. In the context of the legislative cycle, evaluations of existing legislation and policy, based on efficiency, effectiveness, relevance, coherence and value added, should provide the basis for impact assessments of options for further action. To support these processes, the three Institutions agree to, as appropriate, establish reporting, monitoring and evaluation requirements in legislation, while avoiding overregulation and administrative burdens, in particular on Member States. Where appropriate, such requirements can include measurable indicators as a basis on which to collect evidence of the effects of legislation on the ground.

23. The three Institutions agree to systematically consider the use of review clauses in legislation and to take account of the time needed for implementation and for gathering evidence on results and impacts.

The three Institutions will consider whether to limit the application of certain legislation to a fixed period of time ('sunset clause').

24. The three Institutions shall inform each other in good time before adopting or revising their guidelines concerning their tools for better law-making (public and stakeholder consultations, impact assessments and ex-post evaluations).

#### IV. LEGISLATIVE INSTRUMENTS

25. The Commission shall provide, in relation to each proposal, an explanation and justification to the European Parliament and to the Council regarding its choice of legal basis and type of legal act in the explanatory memorandum accompanying the proposal. The Commission should take due account of the difference in nature and effects between regulations and directives.

The Commission shall also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality and how they are compatible with fundamental rights. The Commission shall, in addition, give an account of both the scope and the results of any public and stakeholder consultation, impact assessment and ex-post evaluation of existing legislation that it has undertaken.

If a modification of the legal basis entailing a change from the ordinary legislative procedure to a special legislative procedure or a non-legislative procedure is envisaged, the three Institutions will exchange views thereon.

The three Institutions agree that the choice of legal basis is a legal determination that must be made on objective grounds which are amenable to judicial review.

The Commission shall continue to fully play its institutional role to ensure that the Treaties and the case-law of the Court of Justice of the European Union are respected.

## V. DELEGATED AND IMPLEMENTING ACTS

26. The three Institutions underline the important role played by delegated and implementing acts in Union law. Used in an efficient, transparent manner and in justified cases, they are an integral tool for better law-making, contributing to simple, up-to-date legislation and its efficient, swift implementation. It is the competence of the legislator to decide whether and to what extent to use delegated or implementing acts, within the limits of the Treaties.
27. The three Institutions acknowledge the need for the alignment of all existing legislation to the legal framework introduced by the Lisbon Treaty, and in particular the need to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny. The Commission will propose that latter alignment by the end of 2016.
28. The three Institutions have agreed on a Common Understanding on Delegated Acts and on the related standard clauses ('the Common Understanding'), annexed hereto. In accordance with the Common Understanding and with a view to enhancing transparency and consultation, the Commission commits to gathering, prior to the adoption of delegated acts, all necessary expertise, including through the consultation of Member States' experts and through public consultations.

Moreover, and whenever broader expertise is needed in the early preparation of draft implementing acts, the Commission will make use of expert groups, consult targeted stakeholders and carry out public consultations, as appropriate.



To ensure equal access to all information, the European Parliament and Council shall receive all documents at the same time as Member States' experts. Experts from the European Parliament and from the Council shall systematically have access to the meetings of Commission expert groups to which Member States' experts are invited and which concern the preparation of delegated acts.

The Commission may be invited to meetings in the European Parliament or the Council in order to have a further exchange of views on the preparation of delegated acts.

The three Institutions will enter into negotiations without undue delay after the entry into force of this Agreement, with a view to supplementing the Common Understanding by providing for non-binding criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union.

29. The three Institutions commit to set up, at the latest by the end of 2017 and in close cooperation, a joint functional register of delegated acts, providing information in a well-structured and user-friendly way, in order to enhance transparency, facilitate planning and enable traceability of all the different stages in the lifecycle of a delegated act.

30. As regards the Commission's exercise of implementing powers, the three Institutions agree to refrain from adding, in Union legislation, procedural requirements which would alter the mechanisms for control set out in Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. Committees carrying out their tasks under the procedure set up under that Regulation should not, in that capacity, be called upon to exercise other functions.
31. On condition that the Commission provides objective justifications based on the substantive link between two or more empowerments contained in a single legislative act, and unless the legislative act provides otherwise, empowerments may be bundled. Consultations in the preparation of delegated acts also serve to indicate which empowerments are considered to be substantively linked. In such cases, any objection by the European Parliament or the Council will indicate clearly to which empowerment it specifically relates.

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<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

## VI. TRANSPARENCY AND COORDINATION OF THE LEGISLATIVE PROCESS

32. The three Institutions acknowledge that the ordinary legislative procedure has developed on the basis of regular contacts at all stages of the procedure. They remain committed to further improving the work done under the ordinary legislative procedure in line with the principles of sincere cooperation, transparency, accountability and efficiency.

The three Institutions agree in particular that the European Parliament and the Council, as the co-legislators, are to exercise their powers on an equal footing. The Commission shall carry out its role as facilitator by treating the two branches of the legislative authority equally, in full respect of the roles assigned by the Treaties to the three Institutions.

33. The three Institutions will keep each other regularly informed throughout the legislative process about their work, about on-going negotiations among them and about any stakeholder feedback that they may receive, via appropriate procedures, including dialogue between them.
34. The European Parliament and the Council, in their capacity as co-legislators, agree on the importance of maintaining close contacts already in advance of interinstitutional negotiations, so as to achieve a better mutual understanding of their respective positions. To that end, in the context of the legislative process, they will facilitate mutual exchange of views and information, including by inviting representatives of the other institutions to informal exchanges of views on a regular basis.

35. The European Parliament and the Council will, in the interest of efficiency, ensure a better synchronisation of their treatment of legislative proposals. In particular, the European Parliament and the Council will compare indicative timetables for the various stages leading to the final adoption of each legislative proposal.
36. Where appropriate, the three Institutions may agree to coordinate efforts to accelerate the legislative process while ensuring that the prerogatives of the co-legislators are respected and that the quality of legislation is preserved.
37. The three Institutions agree that the provision of information to national Parliaments must allow the latter to exercise fully their prerogatives under the Treaties.
38. The three Institutions will ensure the transparency of legislative procedures, on the basis of relevant legislation and case-law, including an appropriate handling of trilateral negotiations.

The three Institutions will improve communication to the public during the whole legislative cycle and in particular will announce jointly the successful outcome of the legislative process in the ordinary legislative procedure once they have reached agreement, namely through joint press conferences or any other means considered appropriate.

39. In order to facilitate traceability of the various steps in the legislative process, the three Institutions undertake to identify, by 31 December 2016, ways of further developing platforms and tools to that end, with a view to establishing a dedicated joint database on the state of play of legislative files.

40. The three Institutions acknowledge the importance of ensuring that each Institution can exercise its rights and fulfil its obligations enshrined in the Treaties as interpreted by the Court of Justice of the European Union regarding the negotiation and conclusion of international agreements.

The three Institutions commit to meet within six months after the entry into force of this Agreement in order to negotiate improved practical arrangements for cooperation and information-sharing within the framework of the Treaties, as interpreted by the Court of Justice of the European Union.

## VII. IMPLEMENTATION AND APPLICATION OF UNION LEGISLATION

41. The three Institutions agree on the importance of a more structured cooperation among them to assess the application and effectiveness of Union law with a view to its improvement through future legislation.
42. The three Institutions stress the need for the swift and correct application of Union legislation in the Member States. The time limit for transposition of directives will be as short as possible and, generally, will not exceed two years.
43. The three Institutions call upon the Member States, when they adopt measures to transpose or implement Union legislation or to ensure the implementation of the Union budget, to communicate clearly to their public on those measures. When, in the context of transposing directives into national law, Member States choose to add elements that are in no way related to that Union legislation, such additions should be made identifiable either through the transposing act(s) or through associated documents.

44. The three Institutions call upon the Member States to cooperate with the Commission in obtaining information and data needed to monitor and evaluate the implementation of Union law. The three Institutions recall and stress the importance of the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>1</sup> and of the Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents, regarding explanatory documents which accompany the notification of transposition measures.
45. The Commission will continue to report annually to the European Parliament and the Council on the application of Union legislation. The Commission's report includes, where relevant, reference to the information mentioned in paragraph 43. The Commission may provide further information on the state of implementation of a given legal act.

#### VIII. SIMPLIFICATION

46. The three Institutions confirm their commitment to using the legislative technique of recasting for the modification of existing legislation more frequently and in full respect of the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts. Where recasting is not appropriate, the Commission will submit a proposal in accordance with the Interinstitutional Agreement of 20 December 1994 –Accelerated working method for official codification of legislative texts as soon as possible after the adoption of an amending act. If the Commission does not submit such a proposal, it shall state the reasons for not doing so.

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<sup>1</sup> OJ C 369, 17.12.2011, p. 14.

47. The three Institutions commit to promoting the most efficient regulatory instruments, such as harmonisation and mutual recognition, in order to avoid overregulation and administrative burdens and fulfil the objectives of the Treaties.
48. The three Institutions agree to cooperate in order to update and simplify legislation and to avoid overregulation and administrative burdens for citizens, administrations and businesses, including SMEs, while ensuring that the objectives of the legislation are met. In this context, the three Institutions agree to exchange views on this matter prior to finalisation of the Commission Work Programme.

By way of contribution to its regulatory fitness and performance programme (REFIT), the Commission undertakes to present annually an overview, including an annual burden survey, of the results of the Union's efforts to simplify legislation and to avoid overregulation and reduce administrative burdens.

Based on the Institutions' impact assessment and evaluation work and input from Member States and stakeholders, and while taking into account the costs and benefits of Union regulation, the Commission will, wherever possible, quantify the regulatory burden reduction or savings potential of individual proposals or legal acts.

The Commission will also assess the feasibility of establishing, in REFIT, objectives for the reduction of burdens in specific sectors.

IX. IMPLEMENTATION AND MONITORING OF THIS AGREEMENT

49. The three Institutions will take the necessary steps to ensure that they have the means and resources required for the proper implementation of this Agreement.

50. The three Institutions will monitor the implementation of this Agreement jointly and regularly, at both the political level through annual discussions and the technical level in the Interinstitutional Coordination Group.

X. FINAL PROVISIONS

51. This Interinstitutional Agreement replaces the Interinstitutional Agreement on better law-making of 16 December 2003<sup>1</sup> and the Interinstitutional Common Approach to impact Assessment of November 2005<sup>2</sup>.

The Annex to this Agreement replaces the 2011 Common Understanding on Delegated Acts.

52. This Agreement shall enter into force on the day of its signature.

Done at ...,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

*For the Commission*  
*The President*

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<sup>1</sup> OJ C 321, 31.12.2003, p. 1.

<sup>2</sup> [http://ec.europa.eu/smart-regulation/impact/key\\_docs/docs/ii\\_common\\_approach\\_to\\_ia\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/key_docs/docs/ii_common_approach_to_ia_en.pdf)



## **ANNEX**

### Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts

#### **I. Scope and general principles**

1. This Common Understanding builds upon, and replaces, the 2011 Common Understanding on Delegated Acts and streamlines the practice established thereafter by the European Parliament and the Council. It sets out the practical arrangements and agreed clarifications and preferences applicable to delegations of legislative power under Article 290 of the Treaty on the Functioning of the European Union (TFEU). That Article requires that the objectives, content, scope and duration of a delegation be expressly defined in each legislative act that includes such a delegation ('the basic act').
2. In exercising their powers and in compliance with the procedures laid down in the TFEU, the European Parliament, the Council and the Commission ('the three Institutions') shall cooperate throughout the procedure with a view to a smooth exercise of delegated power and an effective control of that power by the European Parliament and the Council. To that end, appropriate contacts at administrative level shall be maintained.
3. When proposing delegations of power under Article 290 TFEU, or delegating any such power, the Institutions concerned, depending on the procedure for the adoption of the basic act, undertake to refer as far as possible to the standard clauses set out in the Appendix hereto.

## II. Consultations in the preparation and drawing-up of delegated acts

4. The Commission shall consult experts designated by each Member State in the preparation of draft delegated acts. The Member States' experts shall be consulted in a timely manner on each draft delegated act prepared by the Commission services\*. The draft delegated acts shall be shared with the Member States' experts. Those consultations shall take place via existing expert groups, or via ad hoc meetings with experts from the Member States, for which the Commission shall send invitations via the Permanent Representations of all Member States. It is for the Member States to decide which experts are to participate. Member States' experts shall be provided with the draft delegated acts, the draft agenda and any other relevant documents in sufficient time to prepare.
5. At the end of any meeting with Member States' experts or in the follow-up to such meetings, the Commission services shall state the conclusions they have drawn from the discussions, including how they will take the experts' views into consideration and how they intend to proceed. Those conclusions will be recorded in the minutes of the meeting.

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\* The specificities of the procedure for preparing regulatory technical standards (RTS) as described in the ESA Regulations [Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12), Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48) and Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84)] will be taken into account without prejudice to the consultation arrangements laid down in this Agreement.

6. The preparation and drawing-up of delegated acts may also include consultations with stakeholders.
7. Where the material content of a draft delegated act is changed in any way, the Commission shall give Member States' experts the opportunity to react, where appropriate in writing, to the amended version of the draft delegated act.
8. A summary of the consultation process shall be included in the explanatory memorandum accompanying the delegated act.
9. The Commission shall make indicative lists of planned delegated acts available at regular intervals.
10. When preparing and drawing up delegated acts, the Commission shall ensure a timely and simultaneous transmission of all documents, including the draft acts, to the European Parliament and the Council at the same time as to Member States' experts.
11. Where they consider this necessary, the European Parliament and the Council may each send experts to meetings of the Commission expert groups dealing with the preparation of delegated acts to which Member States' experts are invited. To that end, the European Parliament and the Council shall receive the planning for the following months and invitations for all experts meetings.
12. The three Institutions shall indicate to each other their respective functional mailboxes to be used for the transmission and receipt of all documents relating to delegated acts. Once the register referred to in paragraph 29 of this Agreement has been established, it shall be used for that purpose.

### **III. Arrangements for the transmission of documents and computation of time periods**

13. By way of an appropriate mechanism, the Commission shall officially transmit the delegated acts to the European Parliament and the Council. Classified documents shall be processed in accordance with internal administrative procedures drawn up by each Institution with a view to providing all the requisite guarantees.
14. In order to ensure that the European Parliament and the Council are able to exercise the rights provided for in Article 290 TFEU within the time limits laid down in each basic act, the Commission shall not transmit any delegated acts during the following periods:
  - from 22 December to 6 January;
  - from 15 July to 20 August.

These periods shall only apply when the period of objection is based on point 18.

These periods shall not apply in relation to delegated acts adopted under the urgency procedure provided for in part VI of this Common Understanding. In the event that a delegated act is adopted under the urgency procedure during one of the periods specified in the first subparagraph, the time limit for objection provided for in the basic act shall start to run only when the period in question has come to an end.

By October of the year preceding the elections to the European Parliament, the three Institutions shall agree on an arrangement for the notification of delegated acts during the election recess.

15. The period for expressing objections shall start when all official language versions of the delegated act have been received by the European Parliament and the Council.

#### **IV. Duration of the delegation**

16. The basic act may empower the Commission to adopt delegated acts for an indeterminate or determinate period of time.
17. Where a determinate period of time is prescribed, the basic act should in principle provide for the delegation of power to be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegated power not later than nine months before the end of each period. This point does not affect the European Parliament's or the Council's right of revocation.

#### **V. Periods for objection by the European Parliament and Council**

18. Without prejudice to the urgency procedure, the period for objection defined on a case-by-case basis in each basic act should in principle be of two months, and not less than that, extendable for each institution (the European Parliament or the Council) by two months at its initiative.
19. However, the delegated act may be published in the *Official Journal of the European Union*, and may enter into force before the expiry of that period, if the European Parliament and the Council have both informed the Commission that they will not object.

## **VI. Urgency procedure**

20. An urgency procedure should be reserved for exceptional cases, such as security and safety matters, the protection of health and safety, or external relations, including humanitarian crises. The European Parliament and the Council should justify the choice of an urgency procedure in the basic act. The basic act shall specify the cases in which the urgency procedure is to be used.
21. The Commission undertakes to keep the European Parliament and the Council fully informed about the possibility of a delegated act being adopted under the urgency procedure. As soon as the Commission services anticipate such a possibility, they shall informally forewarn the secretariats of the European Parliament and the Council to that effect via the functional mailboxes referred to in point 12.
22. A delegated act adopted under the urgency procedure shall enter into force without delay and shall apply as long as no objection is expressed within the period provided for in the basic act. If an objection is expressed by the European Parliament or by the Council, the Commission shall repeal the act immediately following notification by the European Parliament or the Council of the decision to object.
23. When notifying a delegated act under the urgency procedure to European Parliament and the Council, the Commission shall state the reasons for the use of that procedure.

## **VII. Publication in the Official Journal**

24. Delegated acts shall be published in the L series of the *Official Journal of the European Union* only after the expiry of the period for objection, save in the circumstances set out in point 19. Delegated acts adopted under the urgency procedure shall be published without delay.
25. Without prejudice to Article 297 TFEU, decisions by the European Parliament or Council to revoke a delegation of power, to object to a delegated act adopted under the urgency procedure or to oppose the tacit renewal of a delegation of power shall also be published in the L series of the *Official Journal of the European Union*. A decision to revoke shall enter into force the day following its publication in the *Official Journal of the European Union*.
26. The Commission shall also publish in the *Official Journal of the European Union* decisions repealing delegated acts adopted under the urgency procedure.

## **VIII. Mutual exchange of information, in particular in the event of a revocation**

27. When exercising their rights in applying the conditions laid down in the basic act, the European Parliament and the Council will inform each other and the Commission.
28. When either the European Parliament or the Council initiates a procedure which could lead to the revocation of a delegation of power, it will inform the other two Institutions at the latest one month before taking the decision to revoke.

## Appendix

### Standard clauses

#### Recital:

In order to ... [*objective*], the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ... [*content and scope*]. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of [*date*]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

#### Article(s) delegating power

The Commission [shall adopt/is empowered to adopt] delegated acts in accordance with Article [A] concerning ... [*content and scope*].

The following supplementary paragraph is to be added where the urgency procedure applies:

Where, in the case of ... [*content and scope*], imperative grounds of urgency so require, the procedure provided for in Article [B] shall apply to delegated acts adopted pursuant to this Article.



Article [A]  
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

[duration]

Option 1:

2. The power to adopt delegated acts referred to in Article(s)... shall be conferred on the Commission for an indeterminate period of time from ... [*date of entry into force of the basic legislative act or any other date set by the co-legislators*].

Option 2:

2. The power to adopt delegated acts referred to in Article(s)... shall be conferred on the Commission for a period of ... years from ... [*date of entry into force of the basic legislative act or any other date set by the co-legislators*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the ...-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Option 3:

2. The power to adopt delegated acts referred to in Article[s]... shall be conferred on the Commission for a period of ... years from the ... [*date of entry into force of the basic legislative act or any other date set by the co-legislators*].
3. The delegation of power referred to in Article(s)... may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of [*date*].
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article(s) ... shall 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 shall be extended by [two months] at the initiative of the European Parliament or of the Council.

The following supplementary article is to be added where the urgency procedure applies:

Article [B]  
Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article [A](6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

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