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NOTE

From:	Presidency
To:	Permanent Representatives Committee (Part 2)
No. prev. doc.:	ST 5623/17; ST 5623/17 ADD 1 REV 1; ST 6933/18; ST 14964/18
No. Cion doc.:	COM (2016) 799 FINAL; COM(2016) 799 FINAL/2
Subject:	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 - Confirmation of the final compromise text with a view to agreement

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (08.04.2019)

1. Following the commitment it had taken at the time of the adoption of 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 powers¹, the Commission made three horizontal legislative proposals in

¹ OJ L 55, 28.2.2011, p. 13. See also the Commission statement published in OJ L 55, 28.2.2011, p. 19.

2013 (Omnibus I, II and III)² to adapt existing basic acts referring to the regulatory procedure with scrutiny established in Article 5a of Council Decision 2006/512/EC³ to the legal framework introduced by the Lisbon Treaty.

2. However, those proposals did not receive the support of the Council because they provided in general for an automatic alignment of RPS measures to delegated acts and not an alignment based on a case-by-case analysis. In addition, there were no formal guarantees that the Commission would systematically consult Member States experts in the preparation of delegated acts. Following that, the Commission withdrew the three Omnibus proposals⁴.

3. The question of the alignment was taken up again in the discussions on the revision of the Interinstitutional Agreement on Better Law-Making (IIA on BLM)⁵. In point 27 of that Agreement, the Commission, the Council and the European Parliament acknowledged 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 was to propose that alignment by the end of 2016.

4. On 14 December 2016 the Commission submitted a 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 - COM(2016) 799 final⁶, subsequently corrected as COM(2016) 799 final/2.

5. The examination of the proposal was assigned to the dedicated Friends of the Presidency Group ("RPS Adaptation") in accordance with a mandate, endorsed by Coreper⁷.

6. In the period between 20 March 2017 and 26 February 2018, the Friends of the Presidency Group held 12 meetings in which it examined the proposal. On 20 March 2018, the Presidency obtained a

² COM(2013) 451 final, COM(2013) 452 final and COM(2013) 751 final.

³ OJ L 184, 17.7.1999, p. 23.

⁴ (2015/C 80/08), OJ C 80 of 7.02.2015, p. 17.

⁵ OJ L 123, 12.05.2016, p. 1.

⁶ On the same date the Commission adopted also a 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 - COM(2016) 798 final.

⁷ ST 5707/17.

partial General Approach to enter into trilogues on the file⁸. In the period between 26 October and 7 December 2018, the Friends of the Presidency Group held 3 meetings in which it completed the examination of the proposal. As a result, on 20 December 2018, the Presidency obtained a complete General Approach for the interinstitutional negotiations on the proposal.

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⁸ ST 6933/18 + ADD 1, ADD 2 REV 1, ADD 3, ADD 4, ADD 5, ADD 6 REV 1, ADD 7 and ADD 8.

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15. Coreper is therefore invited:

- to confirm the final compromise text, as contained in document ST 6666/19 ADD 1, as well as the text of the joint statement, as contained in document ST 6666/19 ADD 2;
- to authorise the Presidency to send a letter to the Chair of the European Parliament's JURI Committee confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the form set out in the compromise package contained in documents ST 6666/19 ADD1 and ST 6666/19 ADD2, subject to the revision by the lawyer-linguists of both institutions, the Council would, in accordance with Article 294(4) TFEU, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.