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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

adapting to Article 290 of the Treaty on the Functioning of the European Union a number of legal acts in the area of Justice providing for the use of the regulatory procedure with scrutiny

EXPLANATORY MEMORANDUM

In parallel with the proposal for a Regulation of the European Parliament and of the Council adapting to Article 290 TFEU a number of legal acts providing for the use of the regulatory procedure with scrutiny (RPS) (COM(2013)451), the present proposal concerns the alignment of five legislative acts in the area of Justice which still refer to the RPS. Those instruments need to be aligned by a separate proposal as they were adopted under a legal basis pursuant to Title V part III of the TFEU and therefore do not bind all Member States, and are thus irreconcilable with the legal bases of the other basic acts.

The approach followed in this proposal is the same as the one followed in the preceding proposal. Accordingly, the present framework regulation provides that where legal acts listed in the annex provide for the use of Article 5a of the Comitology Decision, the Commission is empowered to adopt delegated acts.

Adaptation to the delegated act regime will not affect pending procedures in which an opinion has already been delivered by a committee in accordance with the Comitology Decision.

Basic acts which are adapted to the delegated acts regime are listed in the annex of the proposal.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81(2) 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 opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Treaty of Lisbon introduced the possibility for the legislator to delegate power to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act.
- (2) The measures which can be covered by delegations of powers, as referred to in Article 290(1) of the Treaty on the Functioning of the European Union (TFEU), correspond in principle to those covered by the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission³.
- (3) It is necessary to adapt to Article 290 of the TFEU legal acts already in force which make use of the regulatory procedure with scrutiny.
- (4) 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 before the entry into force of this Regulation.
- (5) When the Commission prepares delegated acts on the basis of the legal acts adapted by this Regulation, it is of particular importance that it carry out appropriate consultations, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (6) The United Kingdom and Ireland are bound by the legal acts referred to in the annex and therefore take part in the adoption and application of this Regulation.

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 184, 17.7.1999, p. 23.

- (7) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark annexed to the Treaty on the Functioning of the European Union, Denmark does not take part in the adoption of this Regulation, and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

Article 1

Where the legal acts listed in the Annex to this Regulation provide for the use of the regulatory procedure with scrutiny referred to in Article 5a(1) to (4) of Decision 1999/468/EC, the Commission shall be empowered to adopt delegated acts in accordance with Article 2 of this Regulation.

Article 2

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts shall be conferred on the Commission for an indeterminate period of time.
3. The delegation of power 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. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. An adopted delegated act shall enter into force only if no objection has been expressed either by the European Parliament or 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.

Article 3

This Regulation shall not affect pending procedures in which a committee has already delivered its opinion in accordance with Article 5a of the Decision 1999/468/EC.

Article 4

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 Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

Legal acts making reference to the regulatory procedure with scrutiny referred to in Article 5a of the Decision 1999/468/EC which are adapted to the regime of delegated acts.

1. Council Regulation (EC) No. 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters
2. Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims
3. Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure
4. Regulation (EC) No. 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure
5. Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No 1348/2000