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2016/0399 (COD)

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to Article 294(6) of the Treaty on the Functioning of the European Union**

**concerning the**

**position of the Council on the adoption of a Regulation of the European Parliament and  
of the Council amending Regulation (EC) No 805/2004 as regards the use of the  
regulatory procedure with scrutiny in order to adapt it to Article 290 of the Treaty on  
the Functioning of the European Union**

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**1. BACKGROUND**

Date of transmission of the proposal to the European Parliament and to the Council 13 March 2017  
(document COM(2016) 798 final – 2016/0399 COD):

Date of the position of the European Parliament, first reading: 17 April 2019

Date of adoption of the position of the Council: 28 June 2022

**2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION**

The aim of this proposal is to adapt to Article 290 of the Treaty on the Functioning of the EU three acts<sup>1</sup> in the area of justice that still refer to the regulatory procedure with scrutiny.

**3. COMMENTS ON THE POSITION OF THE COUNCIL**

The position of the Council as adopted in the first reading fully reflects the agreement reached at technical level and confirmed in an email of 8 June 2022 between the services of the European Parliament and of the Council, which was facilitated by the Commission. No trilogues were deemed necessary. The main points of this agreement include the following:

- The compromise text addresses the alignment only of Regulation (EC) No 805/2004 of the three acts included in the initial Commission proposal. The other two acts, Council Regulation (EC) No 1206/2001<sup>2</sup> and Regulation (EC)

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<sup>1</sup> Two of the three acts have in the meantime been replaced by other acts; see below under point 3.

<sup>2</sup> 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, OJ L 174, 27.6.2001, p. 1-24, as replaced by Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast), OJ L 405, 2.12.2020, p. 1-39.

No 1393/2007<sup>3</sup>, have in the meantime been repealed and therefore are not included in the final agreed text.

- Recitals 1 and 2 on the changes introduced by the Treaty of Lisbon with regard to acts that the Commission may adopt have been aligned with the recitals of Regulation (EU) 2019/1243<sup>4</sup>.
- Two recitals have been proposed to clarify the applicability of the Regulation with regard to, respectively, Denmark and Ireland.
- The only provision in Regulation (EC) No 805/2004 that provides for the use of the regulatory procedure with scrutiny will be aligned with delegated acts, as had been proposed by the Commission.
- The empowerment to adopt delegated acts is given to the Commission for renewable periods of five years, combined with an obligation for the Commission to present reports, nine months before the expiry of each such period, on how it has used the empowerment. The Commission had originally proposed an indeterminate duration of the empowerment, but the limitation of the duration is in line with what has been agreed for many other aligned empowerments, including for the other two files that had been included in the Commission proposal and which have been repealed and replaced by other acts in the meantime.

The Commission supports the agreement reached at technical level.

#### **4. CONCLUSION**

The Commission accepts the position taken by the Council.

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<sup>3</sup> 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, OJ L 324, 10.12.2007, p. 79-120, as replaced by Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), OJ L 405, 2.12.2020, p. 40-78.

<sup>4</sup> This Regulation aligns 64 acts, the alignment of which was proposed in COM(2016) 799.