Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 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 (Text with EEA relevance)

REGULATION (EU) 2019/1243 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 June 2019

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(Text with EEA relevance)

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 33, Article 43(2), Article 53(1), Article 62, Article 91, Article 100(2), Article 114, Article 153(2)(b), Article 168(4)(b), Article 172, Article 192(1), Article 207(2), Article 214(3), and Article 338(1) 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 Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) The Treaty of Lisbon modified the legal framework governing the powers conferred on the Commission by the legislator, introducing a distinction between powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act (delegated acts), and the powers conferred on the Commission to adopt acts to ensure uniform conditions for implementing legally binding Union acts (implementing acts).

(2) Legislative acts adopted before the entry into force of the Treaty of Lisbon confer powers on the Commission to adopt measures under the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC[(4)].

(3) Earlier proposals relating to the alignment of legislation referring to the regulatory procedure with scrutiny with the legal framework introduced by the Treaty of Lisbon were withdrawn[(5)] due to the stagnation of the interinstitutional negotiations.

(4) The European Parliament, the Council and the Commission subsequently agreed on a new framework for delegated acts in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(6)], and acknowledged the need to align all existing legislation to the legal framework introduced by the Treaty of Lisbon. In particular, they agreed on 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 gave a commitment to prepare a proposal for that alignment by the end of 2016.

(5) The majority of empowerments in basic acts which provide for the use of the regulatory procedure with scrutiny fulfil the criteria in Article 290(1) of the Treaty on the Functioning of the European Union (TFEU) and should be adapted to that provision.

(6) Other empowerments in basic acts which provide for the use of the regulatory procedure with scrutiny fulfil the criteria in Article 291(2) TFEU and should be adapted to that provision.

(7) Where implementing powers are conferred on the Commission, those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(7)].

(8) In a limited number of basic acts which currently provide for the use of the regulatory procedure with scrutiny the respective empowerments are no longer needed and should therefore be deleted.

(9) Point 31 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making states that, 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 substantially linked. In such cases, any objection by the European Parliament or the Council will indicate clearly to which empowerment it specifically relates. In a limited number of basic acts listed in the Annex to this Regulation, a clear provision concerning adoption of separate delegated acts for different delegated powers has been included in the basic act.

(10) 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.

(11) Since the adaptations and amendments to be made concern procedures at Union level only, they do not, in the case of directives, need to be transposed by the Member States.

(12) The acts concerned should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

The acts listed in the Annex are amended as set out therein.

***Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/1243 of the European Parliament and of the Council. (See end of Document for details)*

Article 2

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

Article 3

This Regulation shall enter into force on the 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, 20 June 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/1243 of the European Parliament and of the Council. (See end of Document for details)*

ANNEX

I.COMMUNICATION NETWORKS, CONTENT AND TECHNOLOGY

1. Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain[8]

In order to set out the conditions for the implementation of the .eu country code Top Level Domain (ccTLD) established by Regulation (EC) No 733/2002, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement that Regulation with the criteria and the procedure for the designation of the Registry, and with public policy rules concerning the implementation and functions of the .eu Top Level Domain (TLD) and the public policy principles on registration. 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 of 13 April 2016 on Better Law-Making. 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.

Accordingly, Regulation (EC) No 733/2002 is amended as follows:

(1) in Article 3(1), point (a) of the first subparagraph is replaced by the following:

(a) adopt delegated acts in accordance with Article 5a in order to supplement this Regulation by establishing the criteria and the procedure for the designation of the Registry.

Where, in the case of establishing the criteria and the procedure for the designation of the Registry, imperative grounds of urgency so require, the procedure provided for in Article 5b shall apply to delegated acts adopted pursuant to this Article;;

(2) Article 5 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

After consulting the Registry, the Commission is empowered to adopt delegated acts in accordance with Article 5a in order to supplement this Regulation by setting out public policy rules on the implementation and function of the .eu TLD and public policy principles on registration.;

(b) in paragraph 2, the third subparagraph is replaced by the following:

Where a Member State or the Commission within 30 days of publication raises an objection to an item included in a notified list, the Commission is empowered to adopt delegated acts in accordance with Article 5a in order to remedy the situation by supplementing this Regulation.;

(3) the following Articles are inserted:

***Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2019/1243 of the European Parliament and of the Council. (See end of Document for details)*

Article 5a

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.

2 The power to adopt delegated acts referred to in Article 3(1) and Article 5(1) and (2) shall be conferred on the Commission for a period of five years from 26 July 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-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.

3 The delegation of power referred to in Article 3(1) and Article 5(1) and (2) 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 of 13 April 2016 on Better Law-Making[(9)].

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 3(1) and Article 5(1) and (2) 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 5b

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 5a(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.;

(4) in Article 6, paragraphs 3 and 4 are deleted.