



EUROPEAN COMMISSION

Brussels, 10.1.2014
C(2013) 8 final

Dear President,

The Commission would like to thank the Senato della Repubblica for its Opinion on the 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 providing for the use of the regulatory procedure with scrutiny {COM(2013) 451 final} and the 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 {COM(2013) 452 final}.

The Commission welcomes the favourable opinion of the Senato della Repubblica regarding compliance with the principles of subsidiarity and proportionality and takes note of the comments related to the alignment exercise of the regulatory procedure with scrutiny. The Commission would like to make the following remarks:

The Senato della Repubblica considers that the duration of delegation of powers to adopt delegated acts must be explicitly defined. While acknowledging these concerns, the Commission believes that establishing an indeterminate duration of a delegation of powers is one of the options provided for by the Treaty, explicitly mentioned also in the Common Understanding on delegated acts between the Council, the European Parliament and the Commission, and that sunset clauses are not justified in practice. When inserted into a legislative act sunset clauses automatically set a time limit on the powers conferred on the Commission, thus compelling it in practice to present a new legislative proposal when the time limit imposed by the legislator expires, in order to renew a delegation of powers. Such a requirement could be contrary to the objectives of efficiency and speed that justify the use of delegated acts in the first place. It is important to note that under Article 290(2)(a) TFEU the legislator can include in the basic instrument an option to revoke the delegation of power, and the effects of the revocation are exactly the same as those of a sunset clause. In line with this logic, both proposals provide that the delegation of power may be revoked at any time by the European Parliament or by the Council.

The Commission agrees with Senato della Repubblica that the alignment of acts containing references to the regulatory procedure with scrutiny should be based on a detailed analysis

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of all basic acts being aligned. When preparing the proposals, the Commission carried out a careful individual examination of all legislative instruments concerned in order to analyse whether the measures covered by Article 5a of the Decision 1999/468/EC meet the criteria of Article 290 TFEU. Now that the proposals have entered the ordinary legislative procedure, it is appropriate that the legislator assess, one-by-one, the provisions of the legal acts concerned against the criteria laid down in the Treaty. The same will need to apply to the last, third alignment proposal which was adopted by the Commission on 30 October 2013 (COM(2013) 751 final) and covers the remaining legal acts referring to the regulatory procedure with scrutiny.

The Commission hopes that these clarifications address the comments raised by the Senato della Repubblica and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*