

EUROPEAN  
PARLIAMENT

COUNCIL  
OF THE EUROPEAN UNION

EUROPEAN  
COMMISSION

**JOINT HANDBOOK**

**FOR THE PRESENTATION  
AND  
DRAFTING**

**OF ACTS SUBJECT TO THE  
ORDINARY LEGISLATIVE PROCEDURE**

February 2020 edition

## FOREWORD

The European Parliament, the Council and the Commission can refer to the Joint Practical Guide (JPG), which they agreed jointly, when drafting acts subject to the ordinary legislative procedure<sup>1</sup>. However, since the JPG covers all Union legal acts, it is very broad in scope. Moreover, the JPG contains basic legal drafting guidelines, but does not establish detailed drafting rules and contains little standard wording. It was therefore considered to be useful to supplement the JPG with a document that would contain guidelines regarding presentation and standard wording for acts subject to the ordinary legislative procedure. That is the purpose of this Joint Handbook, which has been drafted by the legal and legal-linguistic services of the three institutions. The Joint Handbook will facilitate cooperation between the European Parliament, the Council and the Commission within the framework of the ordinary legislative procedure in the spirit of their Joint Declaration of 13 June 2007<sup>2</sup>.

The Joint Handbook has been drafted by the administrative services and is therefore not binding on the political bodies participating in the legislative process. The sole purpose of the Joint Handbook, in particular where it proposes standard wording, is to provide drafters with a 'toolbox' in which they may find drafting solutions in appropriate cases.

Moreover, the Joint Handbook focuses on the final version of legislative acts, as adopted at the end of the ordinary legislative procedure. The wording of earlier versions of those texts, in particular the Commission proposal, may differ in a number of ways, for example because various stages of the ordinary legislative procedure were not yet known.

The wording used in autonomous acts of the institutions which are not adopted in accordance with the ordinary legislative procedure may differ from those proposed by this Joint Handbook.

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<sup>1</sup> "Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation".  
The version updated in 2014 is set out in [Annex I](#).

<sup>2</sup> [Joint Declaration of the European Parliament, the Council and the Commission of 13 June 2007 on Practical Arrangements for the Codecision Procedure \(Article 251 of the EC Treaty\) \(OJ C 145, 30.6.2007, p. 5\)](#).

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## Marking used in this Handbook

The following marking is used in this Handbook in order to facilitate readability: the font used throughout is 'Verdana' save for wording that is to be inserted into legislative acts, which is in "Times New Roman".

Furthermore, the Handbook uses the following marking for standard wording:

...	Optional wording, with no example given
[xxxx]	Optional wording, with example given
[xxxx/xxxx]	Limited options given
[xxxx/xxxx/....]	Options given but other options possible
xxxxx(xx)	Language specific options, such as masculine/feminine or singular/plural
[xxxxxxxxxxxx]	Explanations (in Verdana)

## A. PART A — MODEL ACT

Text of the act	Comment
<p><b>REGULATION [(EU)/(EU, Euratom)] [2015]/[1] OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b> of ... [on ...]</p>	<p>A.1. Title of a regulation General rules applicable: see point <a href="#">8</a> of the Joint Practical Guide (JPG) and point D.1 Special rules and wording: – amending acts: see points <a href="#">8.3</a>, <a href="#">18.9</a> and <a href="#">18.10</a> JPG and point <a href="#">D.1.4.2</a> – codifications: see point C.3.1 – recasts: see point C.4.1</p>
<p><b>DIRECTIVE (EU) [2015]/[1] OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b> of ... [on ...]</p>	<p>A.2. Title of a directive General rules applicable: see point <a href="#">8</a> JPG and point D.1 Special rules and wording: – amending acts: see points <a href="#">8.3</a>, <a href="#">18.9</a> and <a href="#">18.10</a> JPG and point <a href="#">D.1.4.2</a> – codifications: see point C.3.1 – recasts: see point C.4.1</p>
<p><b>DECISION (EU) [2015]/[1] OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b> of ... [on ...]</p>	<p>A.3. Title of a decision General rules applicable: see point <a href="#">8</a> JPG and point D.1 Special rules and wording: – amending acts: see points <a href="#">8.3</a>, <a href="#">18.9</a> and <a href="#">18.10</a> JPG and point <a href="#">D.1.4.2</a> – codifications: see point C.3.1 – recasts: see point C.4.1</p>
(codification)	<p>B. Wording to be included in all codifications. See point C.3.1</p>
(recast)	<p>C. Wording to be included in all recasts. See point C.4.1</p>
(Text with EEA relevance)	<p>D. Wording to be included where the subject-matter of the act is governed by the Agreement on the European Economic Area</p>
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	<p>E. Wording to be included in all acts</p>

Text of the act	Comment
Having regard to the Treaty on the Functioning of the European Union, and in particular Article(s) ... thereof,	F. Wording to be included in all acts. Indicate the legal basis of the act in the TFEU. Applicable rules: see points <a href="#">9.1</a> , <a href="#">9.3</a> , <a href="#">9.4</a> , <a href="#">9.6</a> , <a href="#">9.8</a> and <a href="#">9.13</a> JPG and point D.2.2
Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article(s) ... thereof,	G. Wording to be included only where the act has a dual legal basis, with one from the TFEU and the other from the Euratom Treaty. Indicate the legal basis of the act in the Euratom Treaty. Applicable rules: see points <a href="#">9.1</a> , <a href="#">9.3</a> , <a href="#">9.4</a> , <a href="#">9.6</a> , <a href="#">9.8</a> and <a href="#">9.13</a> JPG and point D.2.2
Having regard to the proposal from the European Commission,	H.1. Wording to be included where the ordinary legislative procedure has been started by a Commission proposal
Having regard to the initiative of ... [names of the Member States],	H.2. Wording to be included where the ordinary legislative procedure has been started on the initiative of one quarter of the Member States (possible legal bases: Chapters 4 and 5 of Title V of Part 3 TFEU, concerning judicial cooperation in criminal matters and police cooperation)
Having regard to the request of the Court of Justice,	H.3. Wording to be included where the ordinary legislative procedure has been started pursuant to a request by the Court of Justice (possible legal bases: Articles 257 and 281 TFEU, as well as the Statute of the Court)
Having regard to the recommendation from the European Central Bank,	H.4. Wording to be included where the ordinary legislative procedure has been started pursuant to a recommendation from the European Central Bank (possible legal basis: Article 129(3) TFEU)
After transmission of the draft legislative act to the national parliaments,	I. Wording to be included in all acts (even where the act concerns an area falling within the exclusive competence of Union)

Text of the act	Comment
Having regard to the opinion of the European Commission,	<p>J. Wording to be included where the Commission has delivered an opinion pursuant to the second subparagraph of Article 294(15) TFEU.</p> <p>For the footnote accompanying this citation, see point <a href="#">9.10</a> JPG.</p> <p>If the consultation has not resulted in an opinion, the wording of the citation must be adapted: see point <a href="#">D.2.5.1</a>.</p> <p>For other applicable rules, see points <a href="#">D.2.5.2</a>, <a href="#">D.2.5.3</a> and <a href="#">D.2.5.4</a></p>
Having regard to the opinion of the Court of Justice,	<p>K. Wording to be included where the Court of Justice has delivered an opinion, as provided for in the legal basis for the act.</p> <p>For the footnote accompanying this citation, see point <a href="#">9.10</a> JPG.</p> <p>If the consultation has not resulted in an opinion, the wording of the citation must be adapted: see point <a href="#">D.2.5.1</a>.</p> <p>For other applicable rules, see points <a href="#">D.2.5.2</a>, <a href="#">D.2.5.3</a> and <a href="#">D.2.5.4</a></p>
Having regard to the opinion of the European Central Bank,	<p>L. Wording to be included where the European Central Bank has delivered an opinion as provided for in the legal basis for the act or in Article 127(4) TFEU.</p> <p>For the footnote accompanying this citation, see point <a href="#">9.10</a> JPG.</p> <p>If the consultation has not resulted in an opinion, the wording of the citation must be adapted: see point <a href="#">D.2.5.1</a></p> <p>For other applicable rules, see points <a href="#">D.2.5.2</a>, <a href="#">D.2.5.3</a> and <a href="#">D.2.5.4</a></p>
Having regard to the opinion of the Court of Auditors,	<p>M. Wording to be included where the Court of Auditors has delivered an opinion as provided for in the legal basis for the act or in the second subparagraph of Article 287(4) TFEU.</p> <p>For the footnote accompanying this citation, see point <a href="#">9.10</a> JPG.</p> <p>If the consultation has not resulted in an opinion, the wording of the citation must be adapted: see point <a href="#">D.2.5.1</a></p> <p>For other applicable rules, see points <a href="#">D.2.5.2</a>, <a href="#">D.2.5.3</a> and <a href="#">D.2.5.4</a></p>

Text of the act	Comment
Having regard to the opinion of the European Economic and Social Committee,	<p>N. Wording to be included where the Economic and Social Committee has delivered an opinion as provided for in the legal basis for the act or in Article 304 TFEU.</p> <p>For the footnote accompanying this citation, see point <a href="#">9.10</a> JPG.</p> <p>If the consultation has not resulted in an opinion, the wording of the citation must be adapted: see point <a href="#">D.2.5.1</a></p> <p>For other applicable rules, see points <a href="#">D.2.5.2</a>, <a href="#">D.2.5.3</a> and <a href="#">D.2.5.4</a></p>
Having regard to the opinion of the Committee of the Regions,	<p>O. Wording to be included where the Committee of the Regions has delivered an opinion as provided for in the legal basis for the act or in Article 307 TFEU.</p> <p>For the footnote accompanying this citation, see point <a href="#">9.10</a> JPG.</p> <p>If the consultation has not resulted in an opinion, the wording of the citation must be adapted: see point <a href="#">D.2.5.1</a></p> <p>For other applicable rules, see points <a href="#">D.2.5.2</a>, <a href="#">D.2.5.3</a> and <a href="#">D.2.5.4</a></p>
Acting in accordance with the ordinary legislative procedure,	<p>P.1. Wording to be included where the act has been adopted at first or second reading.</p> <p>For the footnote accompanying this citation, see points <a href="#">D.2.6.1</a> and <a href="#">D.2.6.2</a></p>
Acting in accordance with the ordinary legislative procedure, in the light of the joint text approved by the Conciliation Committee on ...,	<p>P.2. Wording to be included where the act has been adopted at third reading.</p> <p>For the footnote accompanying this citation, see point <a href="#">D.2.6.3</a></p>

Text of the act	Comment
Whereas:	Q. Wording to be included in all acts
(1) ... (2) ... ... (...),	R. All acts contain one or more recitals. General rules applicable to recitals: see points <a href="#">10</a> and <a href="#">11</a> JPG and point D.3. Special rules and wording: – delegated acts: see point C.1.1 – implementing acts: see points C.2.1.1 and points C.2.2 – codifications: see point C.3.2 – recasts: see points C.4.2.1 and C.4.2.2 in relation to directives and C.4.3.1 in relation to regulations and decisions – proportionality and subsidiarity: see point <a href="#">10.15</a> JPG and point C.5 – consultations not provided for by the Treaties: see point C.6 – financial provisions: see points C.8.1.1 and C.8.2.1 – amending acts: see points <a href="#">18.11</a> and <a href="#">18.12</a> JPG – "Schengen" acts and other acts falling within Part Three, Title V TFEU: see point C.13
HAVE ADOPTED THIS REGULATION:	S.1. Wording to be included in all regulations
HAVE ADOPTED THIS DIRECTIVE:	S.2. Wording to be included in all directives
HAVE ADOPTED THIS DECISION:	S.3. Wording to be included in all decisions
<i>Article 1</i> ... ... <i>Article 2</i> ... ...	T. If the act contains only one article, this is replaced by the words " <i>Sole Article</i> ". Articles may be grouped together in parts, titles, chapters and sections or subdivided into numbered paragraphs, unnumbered paragraphs, points and indents: see points <a href="#">4.4</a> , <a href="#">4.5</a> , <a href="#">7.3</a> and <a href="#">15.4</a> JPG and point D.4.3. For the standard structure of the enacting terms, see part B. For the general rules applicable to the enacting terms: see points <a href="#">12</a> to <a href="#">15</a> JPG and point D.4



Text of the act	Comment
Done at ..., ...	U. Wording to be included in all acts. Not completed until the place and the date of signature by the Presidents of Parliament and of the Council are known
<i>For the European Parliament</i> <i>The President</i>	<i>For the Council</i> <i>The President</i>
ANNEX ...	V. Wording to be included in all acts  W. Wording to be included where the act contains one or more annexes. General rules applicable to annexes: see point <a href="#">22</a> JPG and point D.5. Special rules and wording: – codifications: see point C.3.4 – recasts: see point C.4.4 – amending acts: see point C.9.6

## B. PART B — STANDARD STRUCTURE OF THE ENACTING TERMS

As far as possible, the enacting terms should have a standard structure. The matters covered are therefore normally dealt with in the order shown in the following table. Not all of the elements listed in the table appear in every act: they should only be included if appropriate in the act concerned.

Element	Comment
Subject-matter	The "subject-matter" is what the act deals with. See point <a href="#">13</a> JPG
Scope	"Scope" refers to the categories of situations of fact or of law to which, and the persons to whom, the act applies. See points <a href="#">4.2.1</a> and <a href="#">13</a> JPG
Definitions	See the rules set out in points <a href="#">6</a> and <a href="#">14</a> JPG and the wording set out in point C.7
Rights and obligations	The provisions relating to rights and obligations constitute the truly normative part of the act, and their form depends on the objective of the act and the degree of complexity of the system provided for. See point <a href="#">15</a> JPG
Delegated acts	See the rules and wording set out in point C.1.2
Implementing acts	See the rules and wording set out in point C.2.1.2
Procedural rules	
Penalties/sanctions at national level	See the wording set out in point C.15
Remedies to be guaranteed	
Provisions amending earlier acts	See the rules and wording set out in points <a href="#">18</a> and <a href="#">19</a> JPG, as well as in point C.9
Repeal or extension of earlier acts	See: <ul style="list-style-type: none"> <li>the rules set out in point <a href="#">21</a> JPG</li> <li>the wording set out in point C.10</li> <li>the wording particular to codifications, set out in point C.3.3</li> <li>the wording particular to recasts, set out in points C.4.2.3 and C.4.3.2.</li> </ul> For the need to state the reasons for a repeal, see point <a href="#">10.6</a> JPG
Transitional provisions	See point <a href="#">15.1</a> JPG
Financial provisions	See the wording set out in points

	C.8.1.2 and C.8.2.2
Mutual assistance and communication of information	
Future evaluation and revision of the act	
Transposition	See: <ul style="list-style-type: none"> <li>• the rules set out in points <a href="#">20.13 and 20.14</a> JPG</li> <li>• the general wording set out in point C.14</li> <li>• the wording specific to recasts, set out in point C.4.2.3</li> </ul>
Entry into force and application of the act in time	See: <ul style="list-style-type: none"> <li>• the rules set out in points <a href="#">20.1 to 20.12</a> JPG</li> <li>• the general wording set out in point C.11</li> <li>• the wording specific to recasts of directives, set out in point C.4.2.3</li> </ul>
Direct applicability or addressees of the act	See the wording set out in point C.12

## C. PART C — STANDARD WORDING

### C.1. WORDING RELATING TO DELEGATED ACTS<sup>3</sup>

#### C.1.1. Recital

"(...) In order to ... [objective], the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of ... [content and scope]. 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."

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\* OJ L 123, 12.5.2016, p. 1."

Where the legislative act provides for numerous delegations of power, the readability of the first sentence of the recital can be improved by using a presentation with indents, where each indent sets out the content and scope of each delegation. Where that presentation is used, the last two sentences of the recital appear in a second paragraph.

#### C.1.2. Articles

The provisions necessary for a delegation of power comprise two elements:

- the delegation itself (see point C.1.2.1);
- the details of the procedure to be followed when that power is exercised (see points C.1.2.2 and C.1.2.3).

Provisions delegating power may be placed close to the relevant substantive provisions, at the end of the relevant higher subdivision (part, title, chapter or section), or towards the end of the act. In any event, care must be taken

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<sup>3</sup> Legal framework: - Article 290 [TFEU](#)  
- Common Understanding between the European Parliament, the Council and the Commission on Delegated Acts, annexed to the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

Point 3 of the abovementioned Common Understanding and point [10.16](#) JPG provide for the use, as far as possible, of this standard wording.

not to confer the same power in more than one place.

The provisions establishing the details of the procedure are placed at the end of the act.

#### C.1.2.1. Article(s) delegating power

"The Commission [shall adopt/is empowered to adopt] delegated acts in accordance with Article [A] concerning ... [content and scope]."

Supplementary paragraph to be added where the urgency procedure applies:

"Where, in the case of ... [content and scope], imperative grounds of urgency so require, the procedure provided for in Article [B] shall apply to delegated acts adopted pursuant to this Article."

#### C.1.2.2. Article concerning the exercise of the delegation

##### *"Article [A] 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. *[duration]*

##### *Option 1:*

The power to adopt delegated acts referred to in Article(s) ... shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of the basic legislative act or any other date set by the co-legislators].

##### *Option 2:*

The power to adopt delegated acts referred to in Article(s) ... shall be conferred on the Commission for a period of ... years from ... [date of entry into force of the basic legislative act or any other date set by the co-legislators]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the ...-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.

##### *Option 3:*

The power to adopt delegated acts referred to in Article(s) ... shall be conferred on the Commission for a period of ... years from ... [date of entry into force of the basic legislative act or any other date set by the co-legislators].

3. The delegation of power referred to in Article(s) ... 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.
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(s) ... 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."

#### C.1.2.3. Supplementary article to be added where the urgency procedure applies

*"Article [B]  
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 [A](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."

#### C.2. WORDING RELATING TO IMPLEMENTING ACTS<sup>4</sup>

##### C.2.1. Implementing acts which are subject to control by the Member States

The following wording is intended to provide guidance for the drafting of provisions on implementing acts to be adopted in accordance with [Regulation \(EU\) No 182/2011](#), and, as such, is non-binding. The different parts of the wording may be used and combined on a case-by-case basis.

##### C.2.1.1. Recitals

##### C.2.1.1.1. Recital that is always to be included where the basic legal act

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<sup>4</sup> Legal framework: - Article 291 [TFEU](#)  
- [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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

provides for implementing powers which are subject to control by Member States<sup>5</sup>

"(...) [Further justification of the need for uniform conditions may be included by the legislator on a case-by-case basis] In order to ensure uniform conditions for the implementation [[of this ... [the basic legal act]/of ... [the relevant provisions of the basic legal act]], implementing powers should be 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\* .

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\* 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13)."

#### C.2.1.1.2. Recitals to be included in specific cases

##### A. Choice of procedure

"(...) The [advisory/examination] procedure should be used for the adoption of ... [relevant implementing acts] [in order to/given that those acts] ... [justification of the exception to Article 2(2) or (3) of Regulation (EU) No 182/2011 taking into account the nature or the impact of the implementing act]."

##### B. Immediately applicable implementing acts

"(...) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to ... [implementing powers as described in the relevant provisions of the basic legal act], imperative grounds of urgency so require."

#### C.2.1.2. Articles

The Provisions necessary for the conferral of implementing power comprise two elements:

- the conferral itself;
- the details of the procedure to be followed when that power is exercised.

Provisions conferring implementing power may be placed close to the relevant substantive provisions, at the end of the relevant higher subdivision (part, title, chapter or section), or towards the end of the act. In any event, care must be taken not to confer the same power in more

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<sup>5</sup> In some cases the legislator confers implementing powers on the Commission which are not subject to control by the Member States; in such cases the recital (or a separate recital) should reflect this, without any reference to [Regulation \(EU\) No 182/2011](#) (see point [C.2.2](#)).

than one place.

The provisions establishing the details of the procedure are placed at the end of the act.

## 1. Article X

### A. Compulsory Article (Article conferring implementing powers on the Commission<sup>6</sup>)

*"Article [X]*

... [description of the implementing acts]. Those implementing acts shall be adopted in accordance with the [advisory/examination] procedure referred to in Article [Y][(y)]."

### B. Possible Article (also providing for immediately applicable implementing acts)

*"Article [X]*

... [description of the implementing acts]. Those implementing acts shall be adopted in accordance with the [advisory/examination] procedure referred to in Article [Y][(y)].

On duly justified imperative grounds of urgency [relating to ...], the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article [Y][(z)]."<sup>7</sup>.

Where the legislator decides to use the possibility referred to in Article 8(2) of [Regulation \(EU\) No 182/2011](#) to provide in the basic legal act for an alternative maximum period of validity of the immediately applicable implementing acts, the following option could be used for the second paragraph:

*"Article [X]*

... [description of the implementing acts]. Those implementing acts shall be adopted in accordance with the [advisory/examination] procedure referred to in Article [Y][(y)].

On duly justified imperative grounds of urgency [relating to ...], the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article [Y][(z)]. Those acts shall remain in force for a period not exceeding ...".

## 2. Article Y

*"Article [Y]*

*Committee procedure*

[Wording to be used where the committee is already established under existing

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<sup>6</sup> Such a provision is to be inserted for each implementing power.

<sup>7</sup> In this case, those immediately applicable implementing acts will remain in force for a period not exceeding six months.



legislation:]

1. The Commission shall be assisted by the ... [name of the committee] established by ... [reference to the legal act which created the committee]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

[Wording to be used where the committee is a new one:]

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

[Where the advisory procedure is provided for in the basic legal act:]

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

[Where the legislator decides to use the possibility referred to in the second subparagraph of Article 3(5) of [Regulation \(EU\) No 182/2011](#), a possible option, among those that could be covered by that provision, might be:]

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or [... [number of members]/a ... majority of [majority to be specified: simple, two-thirds, etc.] ] committee members so request.

[Where the examination procedure is provided for in the basic legal act:]

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

[Where the legislator decides to use the possibility referred to in the second subparagraph of Article 3(5) of [Regulation \(EU\) No 182/2011](#), a possible option, among those that could be covered by that provision, might be:]

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or [... [number of members]/a ... majority of [majority to be specified: simple, two-thirds, etc.] ] committee members so request.

[Where the legislator decides to use the possibility referred to in point (b) of the second subparagraph of Article 5(4) of [Regulation \(EU\) No 182/2011](#) to provide in the basic legal act that a draft implementing act is not to be adopted if no opinion is delivered, the following subparagraph is to be added:]

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

[Where the urgency procedure is provided for in the basic legal act:]

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with [Article 4/Article 5] thereof, shall apply."

### C.2.2. Implementing acts which are not subject to control by Member States

In some cases the legislator confers, in the basic legal act, implementing powers on the Commission which are not subject to control by Member States<sup>8</sup>; in such cases a specific recital (or recitals) should reflect this, with no reference to [Regulation \(EU\) No 182/2011](#) in respect of powers which are not subject to such control.

The following wording is intended to be used together with wording on implementing acts which are subject to control by Member States.

#### RECITALS

Recitals to be included:

- (1) where **none** of the implementing powers conferred on the Commission in the basic legal act **is subject** to control by the Member States:

"(...) [Further justification of the need for uniform conditions may be included by the legislator on a case-by-case basis] In order to ensure uniform conditions for the implementation [[of this ...] [the basic legal act]/of ... [the relevant provisions of the basic legal act]], implementing powers should be conferred on the Commission."

- (2) where **some** of the implementing powers conferred on the Commission in the basic legal act **are not subject** to control by the Member States while **other** implementing powers **are subject** to such control:

"(...) [Further justification of the need for uniform conditions may be included by the legislator on a case-by-case basis] In order to ensure uniform conditions for the implementation [[of this ... [the basic legal act]/of ... [the relevant provisions of the basic legal act]], implementing powers should be conferred on the Commission.

(...) The implementing powers relating to ... [the relevant provisions of the basic legal act conferring implementing powers on the Commission which are subject to control by the Member States] should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council\*

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\* 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 powers (OJ L 55, 28.2.2011, p. 13)."

### C.3. WORDING SPECIFIC TO CODIFICATION<sup>9</sup>

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<sup>8</sup> For example, implementing acts concerning competition in the field of agriculture, public procurement, etc.

<sup>9</sup> Legal framework: [Interinstitutional Agreement of 20 December 1994 on an](#)

### C.3.1. Title

1. The fact that an act is a codification should be indicated after the title of the act<sup>10</sup>.

Example:

"REGULATION [(EU)/(EU, Euratom)] [2015]/[1] OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
of ...  
[on ...]  
(codification)"

2. Where appropriate, the title of the codifying act may be updated.

Example:

Council Directive 78/933/EEC of 17 October 1978 **on the approximation of the laws of Member States** relating to the installation of lighting and light-signalling devices on wheeled agricultural or forestry tractors

was codified by:

Directive 2009/61/EC of the European Parliament and the Council of 13 July 2009 on the installation of lighting and light-signalling devices on wheeled agricultural or forestry tractors

### C.3.2. Recitals

#### C.3.2.1. First recital

"(1) [Regulation/Directive/Decision] ...\* has been substantially amended [several times]\*\*. In the interests of clarity and rationality, that [Regulation/Directive/Decision] should be codified.

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\* [Regulation/Directive/Decision] ... (OJ L ..., ..., p. ...).

\*\* See Annex [N][, Part A]."

**NB:** If the title of the act to be codified was amended, the corresponding footnote should read:

"\* [Regulation/Directive/Decision] ... (OJ L ...). The original title was "...". It was amended by [amending act] (OJ L ...)."

#### C.3.2.2. Final recital in the case of a codifying directive

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[accelerated working method for official codification of legislative texts](#) (OJ C 102, 4.4.1996, p. 2).

<sup>10</sup> The term "(codification)" **is not** part of the title.

"(...) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law [and the date(s) of application] of the Directives set out in Annex [N], Part B,".

*NB:* Other standard recitals which already appear in the act to be codified or which are normally inserted in a new act should, where appropriate, be included in the codifying act. It may be necessary to adapt or update them.

### C.3.3. Articles

#### C.3.3.1. Article repealing a regulation or a decision

*"Article ...*

[Regulation/Decision] ... is repealed.

References to the repealed [Regulation/Decision] shall be construed as references to this [Regulation/Decision] and shall be read in accordance with the correlation table in Annex [O]."

#### C.3.3.2. Article repealing a directive

*"Article ...*

Directive ..., as amended by the [Directive(s)/acts] listed in Annex [N], Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law [and the date(s) of application] of the Directives set out in Annex [N], Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex [O]."

*NB:* It is not possible to add new standard articles to a codifying act, but it is possible to update existing standard articles.

### C.3.4. Annexes specific to codification

#### C.3.4.1. In acts codifying regulations or decisions

"ANNEX [N]

Repealed [Regulation/Decision]  
with [list of the successive amendments thereto/the amendment thereto]

[Council][Regulation/Decision] ... [of the European Parliament and of the Council] (OJ L ..., ..., p. ...)	
[Council][Regulation/Decision] ... [of the European Parliament and of the Council]	[Only the references made by ... to ...]

(OJ L ..., ..., p. ...)	
[Act of Accession ...]	[Only the references made by ... to ...]"

#### C.3.4.2. In codifying directives

"ANNEX [N]

##### Part A

Repealed Directive  
with [list of the successive amendments thereto/the amendment thereto]  
(referred to in Article ...)

[Council] Directive ... [of the European Parliament and of the Council] (OJ L ..., ..., p. ...)	
[Council] Directive ... [of the European Parliament and of the Council] (OJ L ..., ..., p. ...)	[Only the references made by ... to ...]
[Act of Accession ...]	[Only the references made by ... to ...]

##### Part B

Time-limits for transposition into national law [and date(s) of application]  
(referred to in Article ...)

Directive	Time-limit for transposition	[Date of application]
		..."

#### C.3.4.3. In all codifying acts

"ANNEX [O]

##### Correlation table

[Regulation/Decision/Directive] ...	This [Regulation/Decision/Directive]
Article ... [(...)]	Article ... [(...)]
Article ... [(...)]	Article ... [(...)]

...	
[Annex ...]	[Annex ...]
-	[Annex ...]
-	[Annex ...]".

#### C.4. WORDING SPECIFIC TO RECASTS<sup>11</sup>

##### C.4.1. Title

The fact that an act is a recast should be indicated after the title of the act<sup>12</sup>.

Example:

"REGULATION [(EU)/(EU, Euratom)] [2015]/[1] OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
of ...  
on ...  
(recast)"

##### C.4.2. Standard recitals and articles specific to recast directives

###### C.4.2.1. First recital

(a) Where the directive to be recast has been amended:

"(1) Directive [(EU)/(EU, Euratom)] [2015]/[1] ...\* has been substantially amended [several times]\*\*. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

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\* Directive ... (OJ L ..., ..., p. ...).

\*\* See Annex [N], Part A."

(b) Where the directive to be recast has not been amended:

"(1) A number of amendments are to be made to Directive [(EU)/(EU, Euratom)] [2015]/[1] ...\*. In the interests of clarity, that Directive should be recast.

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\* Directive ... (OJ L ..., ..., p. ...)."

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<sup>11</sup> Legal framework: [Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts](#) (OJ C 77, 28.3.2002, p. 1).

<sup>12</sup> The term "(recast)" **is not** part of the title.

#### C.4.2.2. Final recitals

##### Penultimate recital

"(...) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive(s). The obligation to transpose the provisions which are unchanged arises under the earlier Directive(s)."

##### Final recital

"(...) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit(s) for the transposition into national law [and the date(s) of application] of the Directive(s) set out in Annex [N][, Part B],"

#### C.4.2.3. Articles preceding the final article designating addressees

*"Article [X]<sup>13</sup>  
Transposition*

Model A *(where it is not essential that the national provisions be applied from the same date in all Member States)*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article(s) ... and Annex(es) ...<sup>14</sup> by ... [day/month/year]. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive(s) repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Model B *(where it is essential that the national provisions be applied from the same date in all Member States)*

1. Member States shall adopt and publish, by ... [day/month/year], the laws, regulations and administrative provisions necessary to comply with Article(s) ... and Annex(es) ...<sup>15</sup>. They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from ... [day/month/year].

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<sup>13</sup> In recasts, this wording is used instead of the wording set out in point C.14. The wording used in the Commission proposal may be slightly different.

<sup>14</sup> Refer to the articles and annexes which have been amended in substance by comparison with the repealed Directive(s).

<sup>15</sup> Refer to the articles and annexes which have been amended in substance by comparison with the repealed Directive(s).

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive(s) repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article [Y]*  
*Repeal*

Directive(s) ... [, as amended by the [Directive(s)/acts/...] listed in Annex [N], Part A,] is (are) repealed<sup>16</sup> with effect from ...<sup>17</sup>, without prejudice to the obligations of the Member States relating to the time-limit(s) for the transposition into national law [and the date(s) of application] of the Directive(s) set out in Annex [N][, Part B].

<sup>18</sup>References to the repealed Directive(s) shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex [O].

*Article [Z]*  
*Entry into force and application*

This Directive shall enter into force on the [twentieth] day [following that] of its publication in the *Official Journal of the European Union*.

Article(s) ... and Annex(es) ...<sup>19</sup> shall apply from ...<sup>20</sup>."

### C.4.3. Standard recitals and articles specific to recast regulations and decisions

#### C.4.3.1. First recital

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<sup>16</sup> Insert the wording “for the Member States bound by this Directive” in the case of a recast, and amendment, of an existing act falling within Part Three, Title V TFEU and already binding on Ireland (see point [C.13.2](#) relating to the insertion of **a specific recitals** for Ireland).

<sup>17</sup> If Model A of Article [X] is used, it will be the day after the date in the first subparagraph of Article [X](1).  
If Model B of Article [X] is used, it will be the date in the second subparagraph of Article [X](1).

<sup>18</sup> Insert the wording “For the Member States bound by this Directive,” in the case of a recast, and amendment, of an existing act falling within Part Three, Title V TFEU and already binding on Ireland (see point [C.13.2](#) relating to the insertion of **a specific recital for** Ireland).

<sup>19</sup> Refer to the articles and annexes which are **unchanged** by comparison with the repealed Directive(s).

<sup>20</sup> If Model A of Article [X] is used, it will be the day after the date in the first subparagraph of Article [X](1).  
If Model B of Article [X] is used, it will be the date in the second subparagraph of Article [X](1).



(a) Where the regulation or decision to be recast has been amended:

"(1) [Regulation/Decision] [(EU)/(EU, Euratom)] [2015]/[1] ...\* has been substantially amended [several times]\*\*. Since further amendments are to be made, that [Regulation/Decision] should be recast in the interests of clarity.

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\* [Regulation/Decision] ... (OJ L ..., ..., p. ...).

\*\* See Annex [N]."

(b) Where the regulation or decision to be recast has not been amended:

"(1) A number of amendments are to be made to [Regulation/Decision] [(EU)/(EU, Euratom)] [2015]/[1] ...\*. In the interests of clarity, that [Regulation/Decision] should be recast.

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\* [Regulation/Decision] ... (OJ L ..., ..., p. ...). "

C.4.3.2. Article preceding the final article on entry into force

*"Article [Y]  
Repeal*

[Regulation(s)/Decision(s)] ... [is/are] repealed.

References to the repealed [Regulation(s)/Decision(s)] shall be construed as references to this [Regulation/Decision] and shall be read in accordance with the correlation table in Annex [O]."

C.4.4. Annexes

C.4.4.1. In a recast directive

(a) which has been amended

"ANNEX [N]

Part A

Repealed Directive

with [list of the successive amendments thereto/the amendment thereto]  
(referred to in Article [Y])

[Council] Directive ... [of the European Parliament and of the Council] (OJ L ..., ..., p. ...)	
[Council] Directive ... [of the European Parliament and of the	[Only the references made by ... to ...]

Council] (OJ L ..., ..., p. ...)	
[Act of Accession ...]	[Only the references made by ... to ...]

Part B

Time-limits for transposition into national law [and date(s) of application]

(referred to in Article [Y])

Directive	Time-limit for transposition	[Date of application]
		... "

(b) which has not been amended

"ANNEX [N]

Time-limit for transposition into national law [and date of application]

(referred to in Article [Y])

Directive	Time-limit for transposition	[Date of application]
		... "

C.4.4.2. In a recast regulation or decision which has been amended

"ANNEX [N]

Repealed [Regulation/Decision]  
with [list of the successive amendments thereto/the amendment thereto]

[Council] [Regulation/Decision] ... [of the European Parliament and of the Council] (OJ L ..., ..., p. ...)	
[Council] [Regulation/Decision] ... [of the European Parliament and of the Council] (OJ L ..., ..., p. ...)	[Only the references made by ... to ...]
[Act of Accession ...]	[Only the references made by ... to ...]"

#### C.4.4.3. In all recasts

"ANNEX [O]

Correlation table

[Regulation/Decision/Directive] ...	This [Regulation/Decision/Directive]
Article ... [(...)]	Article ... [(...)]
Article ... [(...)]	Article ... [(...)]
...	
[Annex ...]	[Annex ...]
-	[Annex ...]
-	[Annex ...]"

### C.5. WORDING RELATING TO THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY

#### C.5.1. Subsidiarity and proportionality

Standard recital:

"(...) Since the objectives of this [Regulation/Directive/Decision] ... [if appropriate specify the objectives] cannot be sufficiently achieved by the Member States ... [give reasons] but can rather, by reason of ... [specify the scale or effects of the action], be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this

[Regulation/Directive/Decision] does not go beyond what is necessary in order to achieve those objectives."

It should be stressed that the fixed part of this standard recital essentially reproduces the wording of the relevant provisions of the TEU. It is necessary, in the actual recital, to specifically state the reasons why the objectives pursued by the draft legislative act will be better achieved at Union level.<sup>21</sup> Care must therefore be taken when completing the variable part of the recital intended for the entry of those reasons.

It is also possible to state those reasons in other recitals. In that case, it may be helpful to include a reference to those other recitals in the standard recital (e.g.: "For the reasons set out above, ...").<sup>22</sup>

#### C.5.2. Proportionality<sup>23</sup>

Standard recital:

"(...) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ... [specify the general objective] to lay down rules on ... [refer to the specific measures governed by the act in question]. This [Regulation/Directive/Decision] does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union."

#### C.5.3. Derogation from the requirement to wait until the deadline for national parliaments' reasoned opinions

Standard recital:

"(...) In view of ... [state the reasons for the urgency of the matter], it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community."

Other wording may be used in specific cases.

In cases such as this, the standard citation on transmission of the draft act

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<sup>21</sup> As to the statement of reasons for the compliance of the act with the principle of subsidiarity, see also, in particular:  
– the principles set out in point [10.15](#) JPG;  
– the [judgment of the Court of Justice of 4 May 2016 in \*Poland v Parliament and Council, C-358/14\*](#), ECLI:EU:C:2016:323, paragraphs 111 to 125, and the [Opinion of the Advocate General in that case](#), ECLI:EU:C:2015:848, paragraphs 172 to 188.

<sup>22</sup> In cases where national parliaments have issued reasoned opinions representing a number of votes equal to, or greater than, the thresholds provided for in Article 7(3) of Protocol No 2 on the application of the principles of subsidiarity and proportionality, it is necessary to add specific recitals to explain the decision to maintain the consideration of the draft legislative act.

<sup>23</sup> As to the statement of reasons for the proportionality of an act, see also the principles set out in point [10.15](#) JPG.

to the national parliaments must still be included.

## C.6. WORDING RELATING TO CONSULTATIONS NOT PROVIDED FOR BY THE TREATIES

Standard recital:

"(...) [The European Data Protection Supervisor] was consulted in accordance with [Article 28(2) of Regulation (EC) No 45/2001] and delivered an opinion [on 12 January 2012\*].

[\_\_\_\_\_

\* OJ C 136, 11.5.2012, p. 1.]"

See in this regard point D.2.5.4.

## C.7. WORDING LAYING DOWN DEFINITIONS

Definitions are often set out in a separate article (see point [14](#) JPG), which is usually presented as follows:

*"Article [3]*

*Definitions*

For the purposes of this [Regulation/Directive/Decision], the following definitions apply:

- (1) '...' means ...; [static definition]
- (2) '...' means ... as defined in [Article 4(1)(43) of Regulation (EU) No 575/2013]; [dynamic definition]

..."

Other methods may be used to create definitions in particular cases.

Sometimes, definitions are applicable only to a higher subdivision of an act (part, title, chapter or section). Those definitions should preferably be included in the definitions article but they could also appear at the beginning of the relevant subdivision, as follows: 'For the purposes of this [section], "...” means ...'. Regardless of which method is used, such definitions raise specific questions, in particular whether it is useful to restrict a definition to a particular subdivision if the defined term is only in fact referred to in that subdivision, the meaning to be given to the defined term if it is also referred to in a different subdivision, etc.

## C.8. WORDING FOR FINANCIAL ASPECTS

### C.8.1. Multi-annual programmes

#### C.8.1.1. Recital on the financial envelope

"(...) "This [Regulation/Decision] lays down a financial envelope for the entire duration of ...

[specify the programme concerned], which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management\*, for the European Parliament and the Council during the annual budgetary procedure.

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\* OJ C 373, 20.12.2013, p. 1."

#### C.8.1.2. Provision on the financial envelope

*"Article [X]*

"The financial envelope for the implementation of ... [specify the programme] for the period [from 1 January 2014 to 31 December 2020] shall be EUR ... [in current prices/in constant... prices [specify the reference year]].

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework."<sup>24</sup>

#### C.8.2. Protection of the Union's financial interests

##### C.8.2.1. Recital

"(...) The financial interests of the Union should be protected through proportionate measures throughout the expenditure cycle, including the prevention, detection and investigation of irregularities, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, administrative and financial penalties."

##### C.8.2.2. Article

*"Article [X]*

*Protection of the financial interests of the Union*

1. The Commission shall take appropriate measures to ensure that, when actions financed under this [Regulation/Decision] are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds under the [programme].<sup>25</sup>
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-

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<sup>24</sup> Only the elements to be provided for in all cases are shown here. The article can have a more complex structure and contain elements that are specific to the act in question.

<sup>25</sup> The reference to a "programme" is replaced, if need be, by a reference to an "instrument" or a "mechanism".

spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council\* and Council Regulation (Euratom, EC) No 2185/96\*\* with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under the [programme].<sup>26</sup>

4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of this [Regulation/Decision] shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences.

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\* Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

\*\* Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2)."

## C.9. WORDING SPECIFIC TO AMENDING ACTS

### C.9.1. Introductory wording

#### C.9.1.1. Where there are multiple amendments to an act

"[Regulation/Directive/Decision] ... is amended as follows:

(1) in Article [3][(1)], ...

(2) in Article [4], ...

..."

#### C.9.1.2. Where there are multiple amendments to a passage

"([1])[Article .../Paragraph .../The [first] paragraph/... ] is amended as follows:

(a) ...;

(b) ...;

(c) ...."

See the example showing a combination of multiple amendments to an act

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<sup>26</sup> The reference to a "programme" is replaced, if need be, by a reference to an "instrument" or a "mechanism".

and to a passage appearing in point [18.1](#) JPG.

### C.9.2. Replacement<sup>27</sup>

— "Article [3] [of Regulation...] is replaced by the following:

*"Article [3]*

*..."*

— In Article [3] [of Regulation...] [paragraph .../the [first] [sub]paragraph/the introductory part/wording/...] is replaced by the following:

*"[1.] ..."*

— In [Article 3] [of Regulation...], the [word(s)/term(s)] "... " [is/are] replaced by the [word(s)/term(s)] "...".<sup>28</sup>

— In [Article 3] [of Regulation...], the date "... " is replaced by "... ".

### C.9.3. Insertion

#### C.9.3.1. Wording

— The following article<sup>29</sup> is inserted [in Regulation ...]:

*"Article [10a]*

*..."*

— The following article is inserted [in Chapter VI of Regulation ...]<sup>30</sup>:

*"Article [10a]*

*..."*

— [In Article 3] [of Regulation ...], the following indent is inserted [after the [second] indent/before the first indent]:<sup>31</sup>

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<sup>27</sup> Where the new text refers to an act published in the Official Journal and not yet cited in the act being amended, the footnote reference is in the form of an asterisk (\*) and the following indication is placed **directly beneath the new text**, before the final inverted commas:  
"... [new text]\* ...

\* ... (OJ L ..., ..., p. ...)."

<sup>28</sup> For the disadvantages associated with the replacement of words or terms, see point [18.13.1](#) JPG.

<sup>29</sup> In the case of complex amendments, a reference to the number of the provision to be inserted can facilitate the reading of the amending act and the task of consolidation.

<sup>30</sup> This wording is to be used only where it is necessary to specify in which subdivision of the text the new article is to be inserted.

<sup>31</sup> The insertion of an indent may have an impact on internal or external cross-references to the indents that follow. Such an insertion therefore requires particular



"\_ ...".

- [In Article 3] [of Regulation...], the [term(s)/word(s)] "... " [is/are] inserted [after the [term/word] "..."/between the [term/word] "... " and the [term/word] "..."].<sup>32</sup>

### C.9.3.2. Numbering

Where articles, numbered paragraphs or other subdivisions which are identified by a number or a letter are inserted in the enacting terms of an existing act, they are given the number or letter of the preceding subdivision of the same level in addition to the letter "a", "b", "c", "d", etc. In exceptional cases, where articles, paragraphs or other numbered subdivisions are inserted before a subdivision of the same level appearing in first place, they are designated "Article -1", "Article -1a", "paragraph -1", "paragraph -1a", "point -a", "point -aa", etc.<sup>33</sup>

Where articles, numbered paragraphs, or other subdivisions which are identified by a number or a letter are inserted, the articles, paragraphs, or other subdivisions which follow **should not be renumbered** because other acts may already refer to them (see point [18.2](#) JPG). Renumbering should be carried out only in the case of codification or a recast.

### C.9.4. Addition

#### C.9.4.1. Wording

- In Article [3] [of Regulation ...], the following paragraph<sup>34</sup> is added:

"[4.] ...".

- In Article [3] [of Regulation ...], the following paragraph is added:

"...".

#### C.9.4.2. Numbering

Where articles, numbered paragraphs or other subdivisions which are identified by a number or a letter are added within the enacting terms of an existing act, they are given the number or letter superior to that of the subdivision of the same level which they follow.<sup>35</sup>

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care.

<sup>32</sup> For the disadvantages associated with the insertion of terms or words, see point [18.13.1](#) JPG.

<sup>33</sup> More complex insertions can also be resolved by using a "-" sign. For example, the insertion of Article 1-a between Article 1 and Article 1a.

<sup>34</sup> In the case of complex amendments, a reference to the number of the provision to be added can facilitate the reading of the act amended and the task of consolidation.

<sup>35</sup> In exceptional cases, if the superior number was previously attributed to a provision that has since been deleted, the added subdivisions are given the number or letter of the preceding subdivision of the same level, followed, as relevant, by 'a', 'b', 'c', 'd', 'e', etc. (see point [18.2](#) JPG).

## C.9.5. Deletion<sup>36</sup>

### C.9.5.1. Wording

In order to simply delete a provision, the following wordings can be used:

- [In Regulation ...,] Article [3] is deleted.
- In Article [3] [of Regulation ...], [paragraph .../the [first] [sub]paragraph/...] is deleted.
- In Article [3] [of Regulation ...], the [first] sentence is deleted.
- In Article [3] [of Regulation ...], the [terms/words] "... " are deleted.<sup>37</sup>

Likewise, to delete a higher subdivision (part, title, chapter, section) wording such as "[In Regulation ...,] Chapter [III] is deleted." can, in principle, be used. However, in certain cases, such wording might leave the reader in doubt as to whether the deletion concerns the higher subdivision with all the articles that it contains, or just the subdivision, leaving its contents untouched. In such cases, one of the following wordings could be used in order to make clear the objective of the deletion and to enhance legal certainty:

- [Chapter] [III], containing Articles [12 to 15], is deleted.
- [Chapter] [III] is deleted as a subdivision and Articles [12 to 15] which it contained now form part of [Chapter] [II].

### C.9.5.2. Numbering

Where articles, numbered paragraphs, other basic units or lower subdivisions which are identified by a number or a letter, or higher subdivisions are deleted, care should be taken to **avoid renumbering** the articles, paragraphs, other basic units or lower subdivisions or higher subdivisions that follow them because other acts may already refer to them (see point [18.2](#) JPG). Renumbering is carried out only during a codification or a recast.

## C.9.6. Where there are amendments to one or more annexes

### C.9.6.1. Standard presentation (amendments contained in an annex)

- Specific amendments to an annex

Wording to be inserted in the articles of the amending act:

"[The] Annex(es) ...to [Regulation (EU) ...] [is/are] amended in accordance with [the]

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<sup>36</sup> As to the need to state reasons for deletions in the recitals, see point [10.6](#) JPG.

<sup>37</sup> For the disadvantages associated with the deletion of terms or words, see point [18.13.1](#) JPG.

Annex ... to this Regulation."

Wording to be inserted in the annex to the amending act:

“ANNEX ...

[The] Annex(es) ... to [Regulation ...] [is/are] amended as follows:

(1) ...."

- Replacement of an entire annex:

Wording to be inserted in the articles of the amending act:

“Annex ... to [Regulation ...] is replaced by the text set out in the Annex to this [Regulation].”

Wording to be inserted in the annex to the amending act:

“ANNEX

"ANNEX ...

..."."

#### C.9.6.2. Special rule on presentation in the case of simple amendment (by means of direct amendment in the articles)

- "Annex ... [to Regulation ...] is amended as follows:

"(1) ...."

- "[Regulation ...] is amended as follows:

(1) ...

...

[(4)] [The title of] Annex ... is replaced by the following:

"..."

#### C.9.7. Amendments not applicable to a particular language

Occasionally, certain provisions of an amending act are not applicable or are meaningless in a particular language because, in the relevant language version, the act to be amended is already in line with the change made in the other languages.

It is then appropriate, in that language version, to keep the numbering of the amending provision which is not applicable or is meaningless and to include a remark that it "*does not concern the [English] language*".

#### C.10. WORDING for REPEALS AND EXTENSIONS

### C.10.1. Repeal<sup>38</sup>

Repeal taking effect on the date of entry into force of the repealing act:

- [Regulation ...] is repealed.

Repeal taking effect on another date:

- [Regulation ...] is repealed with effect from ....

### C.10.2. Extension

- [In Article ...] [of Regulation ...], the date ... is replaced by ...

## C.11. WORDING RELATING TO ENTRY INTO FORCE AND APPLICATION IN TIME<sup>39, 40</sup>

### C.11.1. Entry into force

- [This Regulation] shall enter into force on the [twentieth] day [following that] of its publication in the *Official Journal of the European Union*<sup>41</sup>.
- [This Regulation] shall enter into force on ...

### C.11.2. Application in time

Where the period of applicability of an act or of some of its provisions is not an unlimited period starting on the date of entry into force (retroactive<sup>42</sup>, deferred or limited application), one of the following formulations should be used in the final article:

- [This Regulation] shall apply [from .../until .../from ... to .../...].
- [Article 3] shall apply [from .../until .../from ... to .../...].
- [This Regulation] shall enter into force on [the day following that of its publication in the *Official Journal of the European Union*].

It shall apply from ...

However, [Article 3] shall apply from ...

- [This Regulation] shall expire on ...

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<sup>38</sup> As to the need to state the reasons for repeal in the recitals, see point [10.6](#) JPG. For codifications, see the specific wording set out in point C.3.3.

For recasts, see the specific wording set out in points C.4.2.3 and C.4.3.2. See also, in relation to references to dates and time-limits, point D.10.

<sup>39</sup> For recasts of directives, see the particular wording set out in point C.4.2.3.

<sup>40</sup> The terms 'including' and 'inclusive' are superfluous in all the formulations set out in point [C.11](#).

<sup>41</sup> Where application is retroactive, the wording "shall enter into force **on the day** of its publication ....." should be used.

<sup>42</sup> Reasons for retroactive application should be provided in the recitals, with particular care (point [10.14](#) JPG).

- [Article 3] shall cease to apply on ...

Alternatively, in an article other than the final one, wording such as the following may be used:

- ... for the period ... to ...
- ... from ... to ...
- ... [with effect] from ...

## C.12. WORDING RELATING TO DIRECT APPLICABILITY AND ADDRESSEES

### C.12.1. Direct applicability of regulations

Regulations which are applicable to, and in, all Member States:

"This Regulation shall be binding in its entirety and directly applicable in all Member States."

Regulations which are applicable to, and in, only certain Member States (for example, Member States participating in the euro):

"This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties."

These paragraphs do not form part of the final article of the regulation. They are placed between the final article and the words "Done at ...".

### C.12.2. Addressees of directives

Where the directive is addressed to all the Member States:

*"Article ...*

*[Addressees]*

This Directive is addressed to the Member States."

Where the directive is addressed only to certain Member States (for example, Member States participating in the euro):

*"Article ...*

*[Addressees]*

This Directive is addressed to the Member States in accordance with the Treaties."

### C.12.3. Addressees of decisions

Decisions adopted in accordance with the ordinary legislative procedure either state that they are addressed to all the Member States, certain Member States, or do not specify any addressee.

Where the decision is addressed to all the Member States:

*"Article ...*

*[Addressees]*

This Decision is addressed to the Member States."

Where the decision is addressed only to certain Member States (for example, Member States participating in the euro):

*"Article ...*

*[Addressees]*

This Decision is addressed to the Member States in accordance with the Treaties."

C.13. WORDING SPECIFIC TO "SCHENGEN" ACTS AND OTHER ACTS FALLING WITHIN PART THREE, TITLE V TFEU

C.13.1. "Schengen" acts

C.13.1.1. Iceland and Norway – participation in the application

“(…) As regards Iceland and Norway, this [Regulation/Directive/Decision] constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*\* which fall within the area referred to in Article 1, point ..., of Council Decision 1999/437/EC\*\*.

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\* OJ L 176, 10.7.1999, p. 36.

\*\* Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).”

C.13.1.2. Switzerland – participation in the application on the basis of any article of the TFEU other than Articles 82 to 89 (former Part Three, Title IV TEC)

“(…) As regards Switzerland, this [Regulation/Directive/Decision] constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*\* which fall within the area referred to in Article 1, point ..., of Council Decision 1999/437/EC\*\* read in conjunction with Article 3 of Council Decision

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\* OJ L 53, 27.2.2008, p. 52.

\*\* Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

\*\*\* Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).”.

#### C.13.1.3. Switzerland – participation in the application on the basis of any of Articles 82 to 89 TFEU (former Title VI TEU)

“(…) As regards Switzerland, this [Regulation/Directive/Decision] constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*\* which fall within the area referred to in Article 1, point ... of Council Decision 1999/437/EC\*\* read in conjunction with Article 3 of Council Decision 2008/149/JHA\*\*\*. 44

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\* OJ L 53, 27.2.2008, p. 52.

\*\* Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

\*\*\* Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).”.

#### C.13.1.4. Liechtenstein – participation in the application on the basis of any article of the TFEU other than Articles 82 to 89 (former

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43 Even after the fusion of former Part Three, Title IV TEC and Title VI TEU, the two decisions on Switzerland's association remain applicable and the two cases must be distinguished. The same applies to Liechtenstein.

44 A specific reference to Decision 1999/437/EC is normally unnecessary since it is already contained in a recital concerning Iceland and Norway.

### Part Three, Title IV TEC)

“(…) As regards Liechtenstein, this [Regulation/Directive/Decision] constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*\* which fall within the area referred to in Article 1, point ..., of Council Decision 1999/437/EC\*\* read in conjunction with Article 3 of Council Decision 2011/350/EU\*\*\*.

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\* OJ L 160, 18.6.2011, p. 21.

\*\* Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

\*\*\* Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).”

#### C.13.1.5. Liechtenstein – participation in the application on the basis of any of Articles 82 to 89 TFEU (former Title VI TEU)

“(…) As regards Liechtenstein, this [Regulation/Directive/Decision] constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*\* which fall within the area referred to in Article 1, point ..., of Council Decision 1999/437/EC\*\* read in conjunction with Article 3 of Council Decision 2011/349/EU\*\*\*<sup>45</sup>.

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\* OJ L 160, 18.6.2011, p. 3.

\*\* Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the

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<sup>45</sup> A more precise reference to Decision 1999/437/EC is in principle not necessary because it is already mentioned in a recital on Iceland and Norway.



Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

\*\*\* Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1)."

#### C.13.1.6. Iceland, Liechtenstein, Norway and Switzerland – participation in committees

"(...) Iceland, Liechtenstein, Norway and Switzerland are associated with the work of the committees which assist the Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen *acquis*, in accordance with the arrangement of 22 September 2011\* between the European Union and those Associated States.

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\* Arrangement between the European Union and the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen *acquis* (OJ L 103, 13.4.2012, p. 4)."

#### C.13.1.7. Denmark – non-participation (with possibility of participation)

"(...) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this [Regulation/Directive/Decision] and is not bound by it or subject to its application. Given that this [Regulation/Directive/Decision] builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this [Regulation/Directive/Decision] whether it will implement it in its national law<sup>46</sup>."

#### C.13.1.8. Ireland – participation

"(...) Ireland is taking part in this [Regulation/Directive/Decision], in accordance with Article 5(1) of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 6(2) of Council Decision 2002/192/EC\*.

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\* Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take

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<sup>46</sup> This recital will be reviewed as soon as Denmark has submitted its notification under Article 8(1) of Protocol No 22.

part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).”

#### C.13.1.9. Ireland – non-participation

“(…) This [Regulation/Directive/Decision] constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC\*<sup>47</sup>; Ireland is therefore not taking part in the adoption of this [Regulation/Directive/Decision] and is not bound by it or subject to its application<sup>47</sup>.”

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\* Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).”

#### C.13.1.10. New Member States in respect of which the Schengen *acquis* has not yet fully taken effect<sup>48</sup>

“(…) This [Regulation/Directive/Decision] constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of [Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession / Article 3(2) of the 2003 Act of Accession, Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession].”

#### C.13.2. Other acts falling within Part three, Title V TFEU (acts not constituting a development of the Schengen *acquis*)

##### C.13.2.1. Denmark – recital on special position

“(…) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this [Regulation/Directive/Decision] and is not bound by it or subject to its application.”<sup>49</sup>

##### C.13.2.2. Ireland – recital on special position: non-participation

“In accordance with Articles 1 and 2 [and Article 4a(1)<sup>50</sup>] of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this [Regulation/Directive/Decision] and is not bound by it or subject to its application.”

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<sup>47</sup> No standard recital is proposed for cases covered by the situation described in Article 5(2) to (5) of Protocol No 19.

<sup>48</sup> This recital will become redundant as soon as the Member States concerned participate in full in the Schengen *acquis*.

<sup>49</sup> This recital will be reviewed as soon as Denmark has submitted its notification under Article 8(1) of Protocol No 22.

<sup>50</sup> Wording to be inserted in the case of an act which amends, replaces or repeals (by replacing it, such as in the case of a recast) an existing act which is binding on Ireland.

### C.13.2.3. Ireland – recital on special position: participation

“In accordance with Article 3 [and Article 4a(1)51] of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of ...] its wish to take part in the adoption and application of this [Regulation/Directive/Decision].”

### C.13.2.4. Acts that replace an existing act already binding on Ireland (de facto recast)

#### (a) Title

“DIRECTIVE (EU) [2015]/[1]

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on ... and replacing [Framework Decision .../Directive ...]”

#### (b) Specific recital (to be inserted near the end of the preamble and before the recitals relating to participation or non-participation)

"(...) This Directive aims to amend and expand the provisions of [Framework Decision .../Directive ...]. Since the amendments to be made are of substantial number and nature, [Framework Decision ... /Directive ...] should, in the interests of clarity, be replaced in its entirety in relation to the Member States bound by this Directive.”

#### (c) Final article concerning replacement

*"Article [X]*

*[Replacement of [Framework Decision .../Directive ...]]*

[Framework Decision .../Directive ...] is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that [Framework Decision/Directive] into national law.

With regard to the Member States bound by this Directive, references to [Framework Decision .../Directive ...] shall be construed as references to this Directive."

## C.14. WORDING RELATING TO THE TRANSPOSITION OF DIRECTIVES<sup>52</sup>

The following wording covers the most usual cases. The wording to be used to provide for the transposition of a directive may vary depending on the specific characteristics of the directive in question.<sup>53</sup>

<sup>51</sup> Wording to be inserted in the case of an act which amends, replaces or repeals (by replacement, as in the case of recast) an existing act already binding on Ireland.

<sup>52</sup> For recasts, see the wording specific to transposition set out in point C.4.2.3.

<sup>53</sup> The wording used in the Commission proposal may also be slightly different.

C.14.1. Application by each Member State within a fixed period or by a fixed deadline

*“Article ...*

1. Member States shall [bring into force the laws, regulations and administrative provisions necessary/take the necessary measures] to comply with this Directive [by .../with effect from .../within a period of ... as from the date of its entry into force]. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the [main] measures of national law which they adopt in the field covered by this Directive. [The Commission shall inform the other Member States thereof.]”

C.14.2. Application from the same date in all Member States

*“Article ...*

1. By ..., Member States shall [, after consulting the Commission,] adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from ....

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. As soon as this Directive has entered into force, Member States shall ensure that the Commission is informed, in sufficient time for it to submit its comments, of any draft laws, regulations or administrative provisions which they intend to adopt in the field covered by this Directive.”

C.14.3. Adoption, publication and application by each Member State within a fixed period or by a fixed deadline

*“Article ...*

Member States shall adopt and publish, by ..., the laws, regulations and administrative provisions necessary to comply with this Directive before .... They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.”

C.14.4. Member States which already have provisions complying with the requirements of the directive

“Member States shall communicate to the Commission their laws, regulations and

administrative provisions with regard to the application of this Directive.”

#### C.14.5. Simple right to take measures

“Member States shall immediately inform the Commission of measures taken pursuant to this Directive.”

#### C.14.6. Relationship between the provisions of a directive and national transposition measures

Directives occasionally refer to the need to indicate in an explanatory document the relationship between the provisions of a directive and the transposition measures adopted in the different Member States. Such a reference is made in a recital:

"(...) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents\*, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

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\* OJ C 369, 17.12.2011, p. 14."

#### C.15. WORDING RELATING TO PENALTIES/SANCTIONS AT NATIONAL LEVEL

##### C.15.1. In a regulation

“Member States shall lay down the rules on [penalties/sanctions] applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The [penalties/sanctions] provided for shall be effective, proportionate and dissuasive. Member States shall, [by .../without delay], notify the Commission of those rules and of those measures and shall notify it [, without delay,] of any subsequent amendment affecting them.”

##### C.15.2. In a directive

“Member States shall lay down the rules on [penalties/sanctions] applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The [penalties/sanctions] provided for shall be effective, proportionate and dissuasive. Member States shall, [by .../without delay], notify the Commission of those rules and of those measures and shall notify it [, without delay,] of any subsequent amendment affecting them.”

## D. PART D — ADDITIONAL DRAFTING RULES

### D.1. DRAFTING OF THE FULL TITLE

#### D.1.1. General

See point [8](#) JPG.

#### D.1.2. The area concerned

In the full title of acts under the ordinary legislative procedure, the area is normally indicated by "(EU)".

Sometimes the act has a double legal basis, with one in the TFEU and the other in the Euratom Treaty. In such cases, the full title contains the words "(EU, Euratom)".

#### D.1.3. Numbering

When preparing an act adopted in accordance with the ordinary legislative procedure for publication, the Publications Office inserts a number in the full title of the act after the reference to the area concerned. Since 1 January 2015, that number comprises the year of publication, followed by a sequential number (for example, "2015/1").<sup>54</sup>

#### D.1.4. Title

##### D.1.4.1. Brevity

The JPG (point [8](#)) provides, in particular, that the title must be as succinct as possible. This objective can be attained, *inter alia*, by:

- shortening the title of another act to be cited, as provided for in point [16.10.1](#) JPG<sup>55</sup>, and
- using short forms (for example, "Union" instead of "European Union", "Member States" instead of "Member States of the European Union" and "TFEU" instead of "Treaty on the Functioning of the European Union") and, exceptionally, using common abbreviations and acronyms (for example, "ACP",

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<sup>54</sup> For more information, see the official note of the Publications Office, "[Harmonising the Numbering of EU legal acts](#)".

<sup>55</sup> That point in the JPG gives several examples of wording which would render the title unnecessarily cumbersome and should thus be left out. A further example is the unnecessary repetition of elements already mentioned in the title. Thus, at the end of the following title, the title of Regulation (EEC) No 1408/71 is not repeated even though it forms part of the full title of Regulation (EEC) No 574/72: "Council Regulation (EC) No 118/97 of 2 December 1996 amending and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71".

"OECD", "Europol").

#### D.1.4.2. Acts amending or repealing acts

See points [8.3](#), [18.9](#), [18.10](#) and [19.3](#) JPG. It will thus be noted that, if the purpose of an act is to amend another act, it must contain in its title the word "amending" (words such as "replacing ..." should not be used, as they merely express one form of the legal operation of amending an act).

The order in which amended acts are cited in the title of the amending act takes into account the following criteria:

1. author: acts of the European Parliament and of the Council are cited before acts of the Council; acts of the Council are cited before acts of the Commission;
2. date of act: multiple acts adopted by the same author or authors are cited in chronological order;
3. type of act: where multiple acts that were adopted by the same author or authors on the same date are amended, regulations are mentioned first, followed by directives and then decisions;
4. Sequential number: multiple acts of the same type adopted by the same author or authors on the same date are cited in the order of the sequential numbers given to them by the Publications Office when they were published.

An act that repeals another act must include in its title the word "repealing", except where the repealing act is a codification (see point C.3.1) or recast (see point C.4.1).<sup>56</sup> The specific rules applicable to the titles of amending acts apply *mutatis mutandis* to the titles of repealing acts.

The title of an act that amends and repeals other acts should refer to the amendments first, and only then to the repeals.

Where an act amends or repeals a very great number of acts, it is, by way of exception, not necessary to refer to all of them: different wording that preserves the readability of the text can be used instead.<sup>57</sup>

#### D.1.4.3. Codifications and recasts

Special rules apply to the titles of codifying acts (see point C.3.1) and

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<sup>56</sup> The rules applied in the Commission proposal may be slightly different.

<sup>57</sup> For example, "Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part One".

recasts (see point C.4.1).

#### D.1.4.4. Amendment of the Staff Regulations of officials

In regulations amending the Staff Regulations, the subject is referred to directly, with no mention of the Regulation laying down the Staff Regulations (because the basic provisions of the Staff Regulations are contained in several acts):

"REGULATION (EU, Euratom) [2015]/[1]

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

amending the Staff Regulations of Officials of the European Union [and the Conditions of Employment of Other Servants of the Union] [with regard to ...]"

not

"REGULATION (EU, Euratom) [2015]/[1]

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

amending Council Regulation (EEC, Euratom, ECSC) No 259/68 [with regard to ...]".

## D.2. DRAFTING CITATIONS

### D.2.1. General

See point [9](#) JPG.

### D.2.2. Citations on the legal basis

See Part A, cells [F](#) and [G](#).

### D.2.3. Citations on the draft act submitted to the legislator

See Part A, cells [H1 to H4](#).

### D.2.4. Citation on transmission to the national parliaments

See Part A, cell [I](#).

### D.2.5. Citations on consultations

See Part A, cells [J to O](#).

#### D.2.5.1. Consultations not resulting in an opinion

Where the Treaties require that an institution or body be consulted, but



such consultation does not result in an opinion, the citation on consultation, which normally reads "Having regard to the opinion of ... [name of the institution or body]", is replaced by a citation reading "After consulting ... [name of the institution or body]". In such cases, the citation appears without a footnote reference or other information.

#### D.2.5.2. Where more than one opinion is issued

Sometimes an institution or a body is consulted and issues more than one opinion. In such cases, all those opinions must be mentioned, together with the publication details, if available.

For example, if the European Economic and Social Committee issued two opinions and they have been published, the citation and footnote will read as follows:

"Having regard to the opinions of the European Economic and Social Committee<sup>\*</sup>,

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\* OJ ... and OJ ...."

If only the first opinion of the Committee has been published, the citation and the footnote will read as follows:

"Having regard to the opinions of the European Economic and Social Committee<sup>\*</sup>,

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\* Opinion of [17 March 2010] (OJ ...) and Opinion of [8 September 2011] (not yet published in the Official Journal)."

#### D.2.5.3. Optional consultation provided for in the Treaties

The citation "Having regard to the opinion of ... [name of the institution or body]" must also be inserted where an opinion has been issued following an optional consultation or following an initiative under the Treaties (for example under the second and third sentences of the first paragraph of Article 304 TFEU). Where consultation of the Parliament, the Council, or both, is optional and does not result in the delivery of an opinion, that citation is replaced by a citation reading "After consulting ... [name of the institution or body]," without a footnote reference or any other information. Where consultation of the Commission is optional and does not result in the delivery of an opinion, no citation refers to that procedural step.

#### D.2.5.4. Consultation not provided for in the Treaties

Opinions not provided for in the Treaties (for example, opinions from the European Data Protection Supervisor or from technical bodies) are not referred to in citations. They are normally referred to towards the end of the recitals, using the wording set out in point C.6.

## D.2.6. Citation on the legislative procedure

### D.2.6.1. Adoption at first reading

The citation and footnote read as follows:

"Acting in accordance with the ordinary legislative procedure,"\*

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\* Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)] and decision of the Council of ...."

### D.2.6.2. Adoption at second reading

The citation and footnote read as follows:

"Acting in accordance with the ordinary legislative procedure,"\*

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\* Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)] and position of the Council at first reading of ... [(OJ ...)/(not yet published in the Official Journal)]. Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)] [and decision of the Council of ...<sup>58</sup>]."

### D.2.6.3. Adoption at third reading

The citation and footnote read as follows:

"Acting in accordance with the ordinary legislative procedure, [in the light of the joint text approved by the Conciliation Committee on ...]"\*

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\* Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)], position of the Council at first reading of ... [(OJ ...)/(not yet published in the Official Journal)]. Position of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)]. Legislative resolution of the European Parliament of ... [(OJ ...)/(not yet published in the Official Journal)] and decision of the Council of ...."

## D.3. DRAFTING RECITALS

General rules applicable to recitals: see points [10](#) and [11](#) JPG and Part A, cell [R](#).

Special rules and wording:

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<sup>58</sup> The words "and decision of the Council of ..." are inserted where the Council has adopted all Parliament's amendments at second reading. The words are not inserted (because they have no purpose) where Parliament has, at second reading, approved Council's first reading position.

- delegated acts: see point [C.1.1](#);
- implementing acts: see points C.2.1.1 and C.2.2;
- codification: see point [C.3.2](#);
- recast: see points [C.4.2.1](#) and [C.4.2.2](#) for directives and [C.4.3.1](#) for regulations and decisions;
- proportionality and subsidiarity: see point [10.15](#) JPG and point C.5;
- consultations not provided for by the Treaties: see point [C.6](#);
- financial provisions: see points [C.8.1.1](#) and [C.8.2.1](#);
- amending acts: see points [18.11](#) and [18.12](#) JPG;
- Schengen acts and other acts falling within Part Three, Title V TFEU: see point [C.13](#).

#### D.4. DRAFTING THE ENACTING TERMS

##### D.4.1. General

See points [12](#) to [15](#) JPG.

##### D.4.2. Standard structure

See [part B](#).

##### D.4.3. Subdivisions

**Articles** may be **grouped together** in parts, titles, chapters and sections and may be **subdivided** into numbered paragraphs, unnumbered paragraphs, points and indents: see points [4.4](#), [4.5](#), [7.3](#) and [15.4](#) JPG.

For practical reasons, in particular to ensure that footnote references are identical in all languages, the subdivision of a text into **sentences** (which start with a capital letter and end with a full stop) must be the same in all languages. When this principle causes difficulties in a language, the sentences should be broken down into smaller sentence-like units, separated by semicolons.

Since articles and paragraphs are independent, self-contained units, it is useful and often indispensable for the sake of clarity of the text, to **repeat terms** from article to article or from paragraph to paragraph and to give complete references, as in the following example:

Instead of:

"1. The Commission shall take all measures necessary ...

2. **It** shall adopt **those** measures in accordance with the procedure ...",

The following is preferable:

- "1. The Commission shall take all measures necessary ...
2. **The Commission** shall adopt **the measures referred to in paragraph 1** in accordance with the procedure ...".

#### D.4.4. Lists

##### D.4.4.1. List in a sentence without introductory wording

It is advisable to specify the link between the different items in a list in a sentence as follows:

- in the case of a cumulative list, "and"
- in the case of an alternative list, "either... or...",
- in the case of a mixed list (that is to say, a double hypothesis: one item from the list, or several or all of them): an expression such as "... or ... or both" or, where a more elegant solution is unavailable and where it is not possible to insert introductory wording, the expression "and/or" may be used.

The conjunction "or" should be used alone only when the nature of the link is clear because, as the Court has held<sup>59</sup>, the meaning of this conjunction differs depending on the context in which it is used.

##### D.4.4.2. List preceded by introductory wording

Care must be taken to ensure that each item in a list is coordinated with the others and relates directly to the introductory words. To that end, it is preferable to avoid inserting autonomous sentences or paragraphs in a list (see in particular the example given in point [15.3](#) JPG). "Sandwich" constructions, in which the sentence commenced in the introductory wording is continued after a list, should also be avoided.<sup>60</sup>

Furthermore, it should be made clear whether the list which follows the

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<sup>59</sup> See the judgment of the Court of Justice of 12 July 2005 [Commission v France, C-304/02](#), ECLI:EU:C:2005:444, paragraph 83.

<sup>60</sup> For example, the sentence should be formulated like this:  
"Member States shall prohibit the feeding of the following to animals kept or bred for the production of food:  
(a) proteins derived from animals,  
(b) processed animal proteins."  
and not like this:  
"Member States shall prohibit the feeding of:  
(a) proteins derived from animals, or  
(b) processed animal proteins  
to animals kept or bred for the production of food."

introductory wording is cumulative, alternative or mixed (see point [D.4.4.1](#)). Where possible this should be done, in the introductory wording itself, by using wording such as "[each/both/all] of the following", "one of the following" or "one or more of the following". Where it is not possible to do this in the introductory wording, the link between the various items in the list should be expressly stated by adding the word "and", "or" "and/or" at the end of the penultimate item in the list. However, that practice may cause difficulties where the list is amended later and because the meaning of the conjunction "or" may be ambiguous (see point D.4.4.1).

Introductory wording always ends with a colon (:)<sup>61</sup>

Where the list is long or made up of items of some complexity, it is preferable to use **figures** or **letters** for the various items, each of which should end with a **semi-colon** (;) (except for the final item, which ends with a full stop or a comma, depending on the context).

Where the list is short and made up of simple items, **indents** may be used, with a **comma** at the end of each item (except the final item, which may end with a full-stop or semi-colon, depending on the context).

Where the list contains several levels, lower-case letters within brackets should be used for the first level, small Roman numerals within brackets for the second and indents for the third. By way of exception, in the article on definitions (see point [C.7](#)) and in amending provisions (see point [C.9.1](#)), the numbering of points starts with Arabic numerals within brackets for the first level and continues with lower-case letters within brackets, small Roman numerals within brackets and indents.

Each item in a list included in a sentence begins with a **lower-case letter**.

#### D.4.4.3. Lists in tables

In tables, the items in a list begin with either a capital or lower-case letter (depending on the system established by the authors); sometimes, no punctuation mark follows the various items.

#### D.4.5. Headings and tables of contents

Articles may have headings to help the reader find provisions of interest. Headings should be short and should summarise the contents of the article. The approach should be consistent throughout the act: either no article should have a heading or every article should have one.

Parts, titles, chapters and sections should each have a heading.

Lengthy acts should, where necessary, be preceded by a table of contents.

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<sup>61</sup> Where, within a paragraph, points (a), (b), etc., are not preceded by any introductory wording, they constitute proper subparagraphs and end with a full stop.

## D.5. DRAFTING ANNEXES

### D.5.1. General

See point [22](#) JPG.

### D.5.2. Form, style and numbering

Although there are no strict rules governing the presentation of annexes, it is advisable that they not be subdivided into articles, since this might give rise to confusion with the enacting terms, and that images containing text not be inserted.

### D.5.3. Table of contents

Voluminous annexes should, where necessary, be preceded by a table of contents.

## D.6. INTERNAL REFERENCES

### D.6.1. General

See points [16](#), [16.1](#), [16.1.1](#), [16.2](#), [16.4](#), [16.7](#) to [16.9](#) and [16.17](#) JPG.

### D.6.2. General references to the act

- "this Regulation"
- "this Directive"
- "this Decision"<sup>62</sup>

### D.6.3. References to citations

"in the [first] citation"

### D.6.4. References to recitals

- Where the act contains several numbered recitals: "(in) recital [1]"
- Where the act contains only one recital: "(in) the recital"

### D.6.5. References to a part of the enacting terms

#### D.6.5.1. Terminology to be used

Use the wording set out in the third column of the table appearing in point

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<sup>62</sup> In this context, "this Regulation" is always rendered in French texts by "le présent règlement". "That" should be used in English texts where there is a risk of confusion with an act or provision which has just been referred to. Alternatively, the number of the act or provision just referred to can be repeated. Particular care must be taken when using "this" and "that".

[15.4](#) JPG. Reference to the introductory wording preceding a list may be made by words such as "the introductory part" or "the introductory wording".

#### D.6.5.2. Structure of the reference

Where reference is made to a provision, it is often necessary to indicate a number of subdivisions in order to identify the provision precisely. In English texts, the tendency is to proceed from the particular to the general except in the case of numbered subdivisions of articles, or where there is no risk of confusion.

- the second sentence of Article 1(1)
- at the beginning of the third subparagraph of paragraph 1

The only higher subdivisions to which reference is made are those which are not common to the provision referred to and the place where the reference is being made. For example, if reference is made in the first indent of point (b) of Article 3(1) to the second indent of point (a) of the same paragraph, the reference in point (b) would read:

... in the second indent of point (a)

not

... in the second indent of point (a) of **Article 3(1)**

or

... in the second indent of point (a) **of this paragraph.**

Where reference is made to articles which themselves appear in one or more higher subdivisions (part, title, chapter, section), it is not necessary to mention those subdivisions since the articles are numbered continuously throughout the act:

Article 2

not

Article 2 **of Section I.**

Since, by its very nature, the annex forms an integral part of the act to which it is attached (see point [22.3](#) JPG), references in the annex to a part of the enacting terms should be formulated as simply as corresponding references appearing in another part of the enacting terms.

Example:

- "the list provided for in Article 4(3)".

#### D.6.5.3. Multiple references

Where subdivisions of the same type are listed and one or more are accompanied by "lower" subdivisions, the rule set out in point D.6.5.2 is to be followed and the subdivision type is repeated for each reference:

Examples:

— Article 1, **Article** 2(2)(a) and **Article** 3(1)

[not Articles 1, 2(2)(a) and 3(1)]

– Article 2(1) and Article 5(2)

[or Articles 2(1) and 5(2) where this raises no risk of confusion on the part of the reader]

— paragraph 1(5) and the second **subparagraph** of paragraph 2

[not paragraphs 1, point (5) and 2, second subparagraph].

Where subdivisions of the same type are listed and are not accompanied by "lower" subdivisions, the method of referring to them is simplified. The subdivision type is not repeated for each reference:

— Chapters I and II

[not: Chapter I **and** Chapter II]

— Articles 1, 4 and 9

— Articles 1 to 4

— Articles 1 to 4 and 9

— the first and third indents

(or: the first and the third indent, with "indent" in the singular)

Often the references outlined above are combined:

Article 1, Article 3(5)(c), Article 5(2) and (3) and Articles 6 to 9

If reference is made to three directly consecutive figures, they should be indicated individually rather than being given in a contracted form.

Example:

Articles 2, **3 and** 4

[not: Articles 2 **to** 4]

#### D.6.5.4. Expressions to be avoided in references



When reference is made in an act to a subdivision of the same act, the words "preceding", "following", etc. should be avoided in favour of an exact reference to that subdivision.

In addition, phrases such as "above-mentioned" or "set out below" should not be added to the exact reference.

There is no need to add "inclusive" in a list of provisions, since every element cited is automatically included.

The phrase "of this [Regulation/Article/paragraph/...]" should not be added unless there is a likelihood of confusion.

Example:

Within an article, a reference in paragraph 5 to paragraphs 1 to 4 of the same article should read:

"The procedure laid down in paragraphs 1 to 4 ..."

not:

"The procedure laid down in the **preceding** paragraphs ..."

or:

"The procedure laid down in paragraphs 1 to 4 **above** ..."

or (except where there is a likelihood of confusion):

"The procedure laid down in paragraphs 1 to 4 **of this Article** ..."

#### D.6.6. References to annexes

- Where the act contains only one annex: "(in) the Annex"
- Where the act contains more than one annex: "(in) Annex [I]"

Where there is any risk of confusion, a reference should be added to the act in which the citation is made, as follows: "the annex **to** [this Regulation]" or "[the table] appearing in the annex **to** [this Regulation] (not: ... **annexed to** ...).

Annexes necessarily form an integral part of the act to which they are attached (see point [22.3 JPG](#)). Wording such as "forming an integral part of this [Regulation]" should not therefore feature in references to annexes.

#### D.7. EXTERNAL REFERENCES

##### D.7.1. General

See points [16](#), [16.1](#), [16.1.2](#), [16.2](#), [16.3](#) to [16.10](#), [16.17](#) and [16.18 JPG](#).

## D.7.2. References to acts of primary law

### D.7.2.1. Treaties

Reference should first be made to the Treaty on European Union, then to the Treaty on the Functioning of the European Union, then to the Treaty establishing the European Atomic Energy Community

#### *First reference:*

- the Treaty on European Union
- the Treaty on the Functioning of the European Union
- the Treaty establishing the European Atomic Energy Community

Such references are not followed by a reference to publication in the Official Journal.

#### *Subsequent references:*

If only one treaty is cited in the same text, the word "Treaty" may be used.

If several treaties are cited in the same text, the full title of the relevant treaty should be used. Where appropriate, the following abbreviations or acronyms may be used:

- “TEU” for the Treaty on European Union
- “TFEU” for the Treaty on the Functioning of the European Union
- “the Euratom Treaty” for the Treaty establishing the European Atomic Energy Community

A short form may be used in a title in the interests of brevity: see point [D.1.4.1.](#)

Articles, sections, chapters, titles and parts of the TEU and TFEU are cited according to the renumbering resulting from the Treaty of Lisbon in their **consolidated version**<sup>63</sup>, **without any reference to** the former numbering.

That rule also applies when acts are being **amended** which were adopted before the Treaty of Lisbon came into force, and which contain references which therefore follow the former numbering. In the wording replaced, added or inserted by the amending act, references are made on the basis

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<sup>63</sup> By virtue of Article 5 of the Treaty of Lisbon, articles, sections, chapters, titles and parts of the TEU and TEC, as amended by that Treaty, were **renumbered** in accordance with the **tables of equivalences** set out in the Annex to that Treaty, of which they form an integral part. A **consolidated version** was established on this basis.

of the consolidated version. Any inconsistency between unchanged wording of the amended act and wording inserted by the amending act with regard to numbering will be corrected at a later date, namely when codification takes place.

When citing a **title** which contains a reference using the former numbering, this reference is changed in order to follow the consolidated version. The adjusted number will be accompanied by a note similar to the following:

"<sup>1</sup> [Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).]

Editorial note: The title of [Directive 2009/101/EC] has been adjusted to take account of the renumbering of the articles of the Treaty establishing the European Community, in accordance with Article 5 of the Treaty of Lisbon; the original reference was to the [second paragraph of Article 48 of the Treaty establishing the European Community].".

#### D.7.2.2. Protocols

##### *First reference:*

— Protocol No [19] [on the Schengen *acquis* integrated into the framework of the European Union], annexed [to the Treaty on European Union and the Treaty on the Functioning of the European Union]

Such a reference is not followed by a reference to publication in the Official Journal.

##### *Subsequent references:*

— Protocol No [19]

#### D.7.2.3. Acts of accession

— the Act of Accession [of Austria, Finland and Sweden]

or, if listing the acceding Member States is too cumbersome and the meaning is clear:

— the [2003] Act of Accession<sup>64</sup>

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<sup>64</sup> The reference years for the various Acts of Accession are the following:

- 1972 (Denmark and Ireland),
- 1979 (Greece),
- 1985 (Spain and Portugal),
- 1994 (Austria, Finland and Sweden),
- 2003 (Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia),
- 2005 (Bulgaria, Romania),

Acts of accession are thus referred to in a shortened form, without mentioning the corresponding accession treaty and without an Official Journal reference.

### D.7.3. References to other legal acts

#### D.7.3.1. Identification of the act referred to

For references to other legal acts:

- in titles, see point [16.10.1](#) JPG;
- in citations, see point [16.10.2](#) JPG;
- in the rest of the act (recitals, articles and annexes), see point [16.10.3](#) JPG.

By way of exception to the first indent of point [16.10.3](#) JPG, where the recitals, articles or annexes contain a **list** of acts, these may be cited with their full title in the body of the list and with the OJ publication reference in a footnote.

Where a number of acts of the **same type** and adopted by the **same institution** (or institutions) are cited one after another and for the first time in the recitals, articles or annexes, the type of act and the name of the institution (or institutions) are mentioned once (rather than being repeated for each act) and the footnote reference is inserted after the sequential number of each act.

#### Example:

"Employees' rights should remain subject to the national provisions referred to in Directives 2002/14/EC\* and 2009/38/EC\*\* of the European Parliament and of the Council.

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\* Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community (OJ L 80, 23.3.2002, p. 29).

\*\* Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (OJ L 122, 16.5.2009, p. 28)."

Where a number of acts of the **same type** are cited one after the other in the recitals, articles or annexes and those acts have already been cited

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– 2012 (Croatia).

earlier in the act, the type of act is mentioned only once (rather than repeated for each act).

Example:

“Regulations (EU) 2017/1129 and (EU) 2017/1131”

In accordance with the TFEU<sup>65</sup>, the titles of **delegated acts** and **implementing acts** must always include the word "delegated" or "implementing", respectively. Those words must be repeated whenever reference is made to a delegated act or an implementing act, not just the first time the act is mentioned but also in subsequent references (example of a second reference : "Delegated Regulation (EU) 2015/1798").

Certain acts are published in the Official Journal with **two numbers**: one provided by the author and the other by the Publications Office.<sup>66</sup> Both numbers must be cited when referring to the act.

Example:

First reference:

"Decision (EU) 2015/22 of the European Central Bank (ECB/2015/1)\*"

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\* Decision (EU) 2015/22 of the European Central Bank of 8 January 2015 laying down the terms and conditions for transfers to the European Central Bank's capital shares between the national central banks and for the adjustment of the paid-up capital (ECB/2015/1) (OJ L 6, 10.1.2015, p. 15)."

Subsequent references:

"Decision (EU) 2015/22 (ECB/2015/1)"

Given their specific nature, the **Staff Regulations of officials** and other servants of the Union are cited as follows in recitals, articles and annexes:

" the Staff Regulations of Officials of the European Union [and the Conditions of Employment of Other Servants of the Union], laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68\*.

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\* OJ L 56, 4.3.1968, p. 1."

For references to acts where the title mentions a provision of one of the

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<sup>65</sup> Article 290(3) for delegated acts and Article 291(4) for implementing acts.

<sup>66</sup> For more information, see the official note of the Publications Office, "[Harmonising the Numbering of EU legal acts](#)".

**Treaties**, see point [D.7.2.1](#).

Only the **initial publication** of the act is mentioned in the footnote. Neither subsequent amendments nor corrigenda are referred to in the footnote. The only exception to this rule is in the case of codification of an act the title of which has been amended (see point C.3.2.1) or where a static reference is intended (see point [16.14](#) JPG and point [D.8.2](#)).

References to a legal act must be **precise**. For this reason, generic references to an act should be avoided, in particular in the enacting terms, and reference should be made to specific provisions, if possible.

For example, use:

"The procedure laid down in **Article 2** of Regulation ..."

not:

"The procedure laid down in Regulation ..."

D.7.3.2. Identification of the recital referred to

See together, for the identification of the recital, point D.6.4., and, for the identification of the act, point D.7.3.1.

Example:

"recital 1 of Regulation (EU) 2015/10"

Where reference is made to recitals of an act adopted prior to 7 February 2000, before which recitals were unnumbered, use ordinal numbers: "the [first] recital"

D.7.3.3. Identification of the part of the enacting term referred to

See together, for the identification of the part of the enacting term, point D.6.5, and, for the identification of the act, point D.7.3.1.

Example:

"the second subparagraph of Article 3(2) of Regulation (EU) 2015/10"

D.7.3.4. Identification of the annex referred to

See together, for the identification of the annex, point D.6.6, and, for the identification of the act, point D.7.3.1.

Examples:

- Where the act contains only one annex: "the Annex to [Regulation ...]"
- Where the act contains more than one annex: "Annex [I] to [Regulation ...]"

...]"

#### D.7.4. References to the Charter of Fundamental Rights of the European Union and the ECHR

When referring to the Charter, it is sufficient to refer to the “Charter of Fundamental Rights of the European Union”. Such a reference is not followed by a reference to publication in the Official Journal.

When referring to the ECHR, refer to the “European Convention for the Protection of Human Rights and Fundamental Freedoms”.

#### D.7.5. References to resolutions and decisions of the European Parliament

Example:

“the [resolution/decision] of the European Parliament of [27 November 2014] [on supporting consumer rights in the digital single market]\*

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\* [OJ .../Not yet published in the Official Journal].”

#### D.7.6. References to resolutions of the Council

Example:

“the resolution of the Council of [18 November 2010] [on the EU structured dialogue on sport]\*

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\* [OJ .../Not yet published in the Official Journal].”

#### D.7.7. References to Commission communications

Example:

“the communication of the Commission of [25 October 2013] [on the Decommissioning of Nuclear Installation and Management of Radioactive Waste: Management of Nuclear Liabilities arising out of the Activities of the Joint Research Centre (JRC) carried out under the Euratom Treaty]”

#### D.7.8. References to a decision of the Court of Justice

In the body of the text, a reference to a decision of the Court of Justice of the European Union includes at least the type of decision (judgment, order, opinion) and the name of the court (Court of Justice, General Court, Civil Service Tribunal). The usual name of the case or the date of the decision may be added if considered to be useful.

Examples:

"Regulation (EC) No 304/2003 was annulled by a judgment of the Court of Justice\* ...."

"The judgment of the Court of Justice of 10 January 2006 in Case C-178/03\*, *Commission v Parliament and Council*, annulled Regulation (EC) No 304/2003 ..."

Such a reference is always followed by a standard footnote. The footnote indicates, successively:

- the type of decision (judgment, order, opinion);
- the name of the court (Court of Justice, General Court, Civil Service Tribunal);
- the date of the decision;
- the usual name of the case (which is established by the Court in accordance with its internal rules: institutions and Member States are given an abbreviated form, the name of one of the parties to the proceedings in the case of a preliminary reference, etc.);
- the case number;
- the ECLI reference;
- where appropriate, the relevant paragraph(s) of the decision.

Example:

\* Judgment of the Court of Justice of 10 January 2006, *Commission v Parliament and Council*, C-178/03, ECLI:EU:C:2006:4, paragraphs 60 to 65."

This method applies to decisions of the Court published on paper in the European Court Reports and to more recent decisions only published electronically.

If the same decision is referred to more than once in an act, a short form should be established at the first reference (for example "*the Commission v Parliament and Council judgment*", "*the judgment of 10 January 2006*" or "*the judgment in Case C-178/03*").

#### D.7.9. References to international agreements

International agreements that have been published in the Official Journal are always cited with their OJ reference, even if those agreements did not originate as Union agreements but rather, for example, as agreements of the Council of Europe.

The citation refers to the page of the Official Journal on which the text of the agreement begins, rather than to that of the Decision to which it is attached.



In the case of agreements which are not published in the Official Journal, it may be helpful to cite the place and date of signature.

Examples:

- "the Agreement between the Kingdom of Norway and the European Union on a Norwegian Financial Mechanism for the period 2014-2021"

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\* OJ L 141, 28.5.2016, p. 11."

- "the Vienna Convention on the Law of Treaties, signed in Vienna on 23 May 1969,"

It follows from points D.8.1 and D.8.2 that any reference to an international agreement should indicate whether that reference is dynamic or static.

#### D.7.10 References to acts of international organisations

References to the acts of an international organisation should normally set out (in the body of the text), successively, the type of act, the date, the author and the full title. If the same act is referred to more than once in an act, a short form should be established at the first reference (for example ("the recommendation of the International Labour Organization"))).

#### D.7.11. References to non-binding acts

See point [17](#) JPG.

#### D.7.12. References to the *Official Journal of the European Union*

See [point 3.1 of the Interinstitutional Style Guide](#).

### D.8. DYNAMIC AND STATIC REFERENCES

#### D.8.1. Dynamic references

References are 'dynamic' where the provision cited is understood to be the provision with any amendments. For a more detailed explanation, see points [16.11](#) to [16.13](#) and [16.17](#) JPG.

A reference to a provision of a Union act is dynamic save where otherwise indicated. A reference to a provision of a non-Union act must specify that it is dynamic where that is the intention.

*Example of a dynamic reference to a provision of a Union act:*

"Article 10 of Regulation (EU)"

*Examples of dynamic references to a provision of a non-Union act:*

“Article 10 of the Convention of ... on ..., as amended,”

“Article 10 of the Convention of ... on ..., in its most up-to-date version applicable to the European Union,”

#### D.8.2. Static references

A reference is understood to be static when it envisages a particular version of a provision. For a more detailed explanation, see points [16.14](#) to [16.17](#) JPG.

A reference to a provision of a Union act is static only where specified expressly. A reference to a provision of a non-Union act should specify that it is static where that is the intention.

*Example of a static reference to a provision of a Union act in a particular version on a specific date:*

"Article 10 of Regulation (EU) ..., in the version in force on .....,”

“Article 10 of Regulation (EU) ..., in the version applicable on ...”,

*Example of a static reference to a provision of a Union act as amended by a particular act:*

"Article 10 of Regulation (EU) ..., as amended by Regulation (EU) ..."

*Example of a static reference to a provision of a non-Union act in its original version:*

"Article 10 of the Convention of ... on ..., in its original version"

*Example of a static reference to a provision of a non-Union act as amended by a particular act:*

"Article 10 of the Convention of ... on ... as amended by the Protocol of ... on ..."

#### D.9. REFERENCES TO ENTITIES

##### D.9.1. References to the Union and to the Euratom Community

Reference should first be made to the European Union, then to the European Atomic Energy Community.

*First reference:*

- the European Union
- the European Atomic Energy Community

*Subsequent references:*

- the Union
- the Community

A short form may be used in a title in the interests of brevity: see point [D.1.4.1.](#)

#### D.9.2. References to Union institutions and bodies

The order in which those institutions and bodies appear in the **body** of a text follows the order in which they appear in the part of the Treaties relating to the institutions, namely: European Parliament, European Council, Council, Commission, Court of Justice of the European Union, European Central Bank, Court of Auditors, European Economic and Social Committee, Committee of the Regions, European Investment Bank. However, in **citations**, the order to be followed is that indicated in part A above.

<i>Complete and official name</i>	<i>Everyday name</i>	<i>Abbreviation</i>	<i>Name in acts subject to the ordinary legislative procedure</i>
European Parliament	European Parliament	EP	European Parliament
European Council	European Council	—	European Council <sup>1</sup>
Council of the European Union	Council	—	Council <sup>2</sup>
European Commission <sup>3</sup>	Commission	—	Commission <sup>2</sup>
Court of Justice of the European Union <sup>4</sup>	Court of Justice of the European Union (Court) <sup>5</sup>	CJEU	Court of Justice of the European Union <sup>6</sup>
European Central Bank	European Central Bank (Bank) <sup>5</sup>	ECB <sup>7</sup>	European Central Bank
Court of Auditors	Court of Auditors (Court) <sup>5</sup>	—	Court of Auditors
European Economic and Social Committee <sup>8</sup>	European Economic and Social Committee (Committee) <sup>5</sup>	EESC	European Economic and Social Committee
Committee of the Regions	Committee of the Regions (Committee) <sup>5</sup>	CoR	Committee of the Regions
European Investment Bank	European Investment Bank (Bank) <sup>5</sup>	EIB	European Investment Bank

<sup>1</sup> Always use the full title.

<sup>2</sup> Use the full title when first mentioned in the preamble.

<sup>3</sup> Title used only in the TEU (see Article 13).

<sup>4</sup> The Court of Justice of the European Union is composed of the "Court of Justice", the "General Court" and specialised courts (Article 19 TEU). To date, the only specialised court ever established was the European Union Civil Service Tribunal (commonly known as the "Civil Service Tribunal"), which worked from 2004 to 2016. A reference to a decision of one of those courts should as a matter of course mention the court in question and not the institution generally (see point [D.7.8](#)).

<sup>5</sup> Only use the short form (here in brackets) where no confusion is possible.

<sup>6</sup> However, the term "Court of Justice" is used in citations (see part A, cells [H.3](#) et [K](#)).

<sup>7</sup> Abbreviation used in Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank, annexed to the TEU and the TFEU.

<sup>8</sup> The official title of the EESC in the TFEU is "Economic and Social Committee" but it is customary for the adjective "European" to be added.

### D.9.3. References to Member States

A list enumerating only Member States should follow the Latin alphabetic order of the **original names of the countries**, which is the same in all language versions. For further details, see point [7.1.2](#) of the Interinstitutional Style Guide.

For a list of the designations of the Member States and the choice between short and official designations, see point [7.1](#) of the Interinstitutional Style Guide.

#### D.9.4. References to third countries

Lists of only third countries or third countries and Member States usually follow the alphabetical order in which those third countries or third countries and Member States appear **in the language used** (for example, in English: Finland, Philippines, Portugal, Switzerland). For further details, see point [7.1.2](#) of the Interinstitutional Style Guide.

For a list of the designations of third countries and the choice between short and official designations, see point [7.1](#) and Annex [A5](#) to the Interinstitutional Style Guide.

#### D.10. REFERENCES TO DATES AND TIME-LIMITS

##### D.10.1. General

Dates and time-limits must be stated precisely (see point [20](#) JPG), preferably by indicating the **date, expressed in figures** (day/month/year). This method obviates the need to calculate, avoids errors or ambiguities and makes it possible for the wording to be concise.

If possible, the following should be avoided:

- reference to another article in which the date in question is mentioned (this method requires the place in the text to be precisely identified, which can be cumbersome).

Example (of wording to be avoided):

"the date referred to in the second sentence of the first subparagraph of Article 12(1)"

- a descriptive reference (this method results in relatively lengthy formulae and requires the reader to search for the relevant provision).

Examples (of wording to be avoided):

"the date from which Member States are to comply with this Directive"

"three years from the date of entry into force of this Regulation"

In many cases it is possible to simplify a more complex reference by replacing it by the precise date. Thus, the sentence "The Commission shall

present a report **within two years of the entry into force of this Regulation.**" can (where entry into force is 1 January 2015) be replaced by "The Commission shall present a report **by 31 December 2016.**".

If the exact date is not known when the act is adopted, but will be known when it is published (for example, it is a date capable of being determined on the basis of the date of publication of the act in question), three dots are inserted followed by an explanation, in square brackets, of how to calculate the exact date. When the act is published, the Publications Office will replace the dots, the square brackets and the explanations by the exact date.

Example:

"The competent authorities may allow their credit institutions to apply a 50 % risk weighting to the loans outstanding on ... [two years after the date of entry into force of this Directive]. In this case, the property shall be valued not later than ... [five years after the date of entry into force of this Directive]."

If the exact date will still not be known when the act is published (for example, it is a date capable of being determined on the basis of a future event, such as joining an international organisation), provision can be made in the enacting terms for the Commission to publish in the *Official Journal* a notice indicating the exact date, once it is known. In such cases, it is advisable to add a sentence in the recitals indicating that such publication is only for the purpose of informing the public, and has no legal consequences:

"(...) ... It is appropriate to provide for the publication of a notice in the *Official Journal of the European Union* indicating the date of ..., in order to facilitate public access to that information."

#### D.10.2. Amending acts

Where a date or period is indicated by reference to "**this Regulation/Directive/Decision**", in an act amending another act of the same type, care must be taken not to confuse the two acts.

This applies in particular in cases where the reference appears in an amending provision (within quotation marks) inserting text into the amended act. Such a reference (for example, to "the entry into force of this Directive") refers to the **amended** act. Where the intention is to refer to the amending act, no direct reference to the amending act can be made in the text inserted in the amended act and the intended result can be achieved by replacing the reference by another indication (usually a concrete date).

Example (a directive of 2015 amending a directive of 2000):

"The following article is inserted:

"Article 7a

**By 31 December 2020**, the Commission shall, on the basis of that information, submit to the European Parliament and to the Council a report ...".

not

“The following article is inserted:

"Article 7a

... On the basis of that information, the Commission shall submit to the European Parliament and to the Council, **within five years following notification of this Directive**, a report ...".<sup>67</sup>

#### D.10.3. Beginning of periods

See point [20.17](#) JPG.<sup>68</sup>

*NB:* The expression "after" should not be used because it may lead to confusion. If it is used, the date which follows "after" should be the date preceding that on which the period begins. The expression "after 31 December 2015" means "on 1 January 2016 or any date thereafter".

#### D.10.4. End of periods

See point [20.18](#) JPG<sup>69</sup>.

#### D.10.5. Deadlines (time-limits)

Time-limits end at **midnight on the date indicated**<sup>70</sup>.

Where a decision is to be taken, the following wording, which makes it clear that even the final day is included, should be used:

"by [31 December 2015] "

Where a report is to be lodged, a proposal submitted or a time-limit complied with (e.g. in the case of directives), instances where it is unlikely that the task will be carried out on the final day, the following simplified

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<sup>67</sup> Explanation: Article 7a (a new provision) has to be inserted into the amended directive; "this Directive" would therefore mean the directive of 2000. However, a simple calculation will show that the 2015 Directive (+ five years = 2020) is what the author intended to refer to (since 2000 + five years = 2005, a year that has already passed by 2015, the date of adoption of the amending directive).

<sup>68</sup> See [Council Regulation \(EEC, Euratom\) No 1182/71 determining the rules applicable to periods, dates and time-limits](#) (OJ L 124, 8.6.1971, p. 1).

<sup>69</sup> See [Regulation \(EEC, Euratom\) No 1182/71](#).

<sup>70</sup> See [Regulation \(EEC, Euratom\) No 1182/71](#).

form is used:

"before [1 January 2016]"

*NB:* The expression "before ..." must be followed by the date which follows the end of the period. The expression "before 1 January 2016" means "by 31 December 2015".

#### D.11. REFERENCES TO LANGUAGES

For the designation of languages and their order in multilingual or monolingual texts, see points [7.2.1](#) and [7.2.2](#) of the Interinstitutional Style Guide.

#### D.12. FOOTNOTES AND INSTRUCTIONS TO THE PUBLICATION OFFICE

Real footnotes contain information which must be printed "as is" in the published text. As a general rule<sup>71</sup>, real footnotes are introduced by consecutive numbers and appear at the bottom of the page of the text to which they relate. By way of exception, where real footnotes belong to a provision adding or replacing text in an existing act, they are introduced by one, two, three, etc. asterisks and appear immediately after the block of amending text.

Technical footnotes are instructions to the Publication Office to insert in the text, before publication, information which is purely technical in nature and which therefore does not affect the substance in any way, such as the sequential number of an act which is not yet published. Technical footnotes are introduced by increasing numbers of "plus" signs (+). They always appear at the bottom of the page of the text to which they relate, even if they belong to a provision which adds or replaces text in an existing act.

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<sup>71</sup> Different rules may sometimes be used for footnotes relating to technical annexes (such as forms and tables) that extend over several pages.



## Example of the combination of different types of footnotes:

"Article 5

Regulation (EU) No 648/2012 of the European Parliament and of the Council<sup>1</sup> is amended as follows:

(1) in Article 5(2), the following subparagraph is added:

"In the developing of the draft regulatory technical standards under this paragraph, ESMA shall not prejudice the transitional provision relating to C6 energy derivative contracts as laid down in Article 95 of Directive (EU) .../... of the European Parliament and of the Council\*<sup>+</sup> and Article 35(6)(e) of Regulation (EU) .../... of the European Parliament and of the Council\*\*<sup>++</sup>.

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\* Directive (EU) .../... of the European Parliament and of the Council of ... on ... (OJ ...).

\*\* Regulation (EU) .../... of the European Parliament and of the Council of ... on ... (OJ ...).";

(2) ...

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<sup>1</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

<sup>+</sup> OJ: Please insert in the text the number of the Directive contained in document PE-CONS 23/14 (2011/0298(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.

<sup>++</sup> OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 78/13 (2011/0295(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote."

Where the instruction to the Publication Office concerns the substance, for example, the date of application or the date of entry into force of the act, it is not presented as a footnote: three dots are inserted in the body of the text, followed by the instruction in square brackets (see example in point D.10.1).

ANNEX I

Joint Practical Guide  
of the European Parliament, the Council  
and  
the Commission  
for persons involved in the drafting of  
European Union legislation

## Preface to the second edition

For more than ten years, the Joint Practical Guide has proven to be a valuable tool in ensuring that the legal acts drawn up by the European Parliament, the Council and the Commission are drafted clearly and precisely. The principles set out in the Guide are the point of reference for matters of legislative drafting for the three institutions.

However, since the first edition of the Guide was published in 2000, numerous changes have taken place in what is now Union law. It was necessary to consolidate the partial updates which were already available online and the adaptations introduced by the Lisbon Treaty<sup>1</sup> into a new edition.

This edition has also been simplified in certain respects and takes account of the most recent changes. Further developments are also expected; when the time comes, they will have to be integrated into the text of the Guide by the Think-tank on Legislative Technique<sup>2</sup>, which will be responsible for ensuring it is kept up to date.

The Joint Practical Guide is a platform of general drafting principles. Each institution uses the Guide alongside other instruments which contain specific standard formulations and more detailed practical rules.

May the Guide, as adapted and updated, continue to contribute to the quality of legal acts of the Union.

For the Legal Service  
of the European Parliament

For the Legal Service  
of the Council

Mr Christian PENNERA  
Jurisconsult

Mr Hubert LEGAL  
Jurisconsult

For the Legal Service  
of the Commission

Mr Luis ROMERO REQUENA  
Director-General

Brussels, 11 July 2013

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<sup>1</sup> For the purposes of this edition, the wording of the common guidelines adopted by the Interinstitutional Agreement of 1998 (see preface to the first edition), which introduce the subdivisions of the Guide, has been adapted in certain respects to take account of those developments.

<sup>2</sup> The Think-tank was created in 2010 to facilitate cooperation between the three institutions on matters of legislative drafting.

## Preface to the first edition

In order for Community legislation to be better understood and correctly implemented, it is essential to ensure that it is well drafted. Acts adopted by the Community institutions must be drawn up in an intelligible and consistent manner, in accordance with uniform principles of presentation and legislative drafting, so that citizens and economic operators can identify their rights and obligations and the courts can enforce them, and so that, where necessary, the Member States can correctly transpose those acts in due time.

Since the Edinburgh European Council in 1992, the need for better lawmaking — by clearer, simpler acts complying with principles of good legislative drafting — has been recognised at the highest political level. The Council and the Commission have both taken steps to meet that need<sup>1</sup>. It was reaffirmed by Declaration No 39 on the quality of the drafting of Community legislation, annexed to the Final Act of the Amsterdam Treaty. As a result of that Declaration, the three institutions involved in the procedure for the adoption of Community acts, the European Parliament, the Council and the Commission, adopted common guidelines intended to improve the quality of drafting of Community legislation by the Interinstitutional Agreement of 22 December 1998<sup>2</sup>.

This Guide has been drawn up by the three Legal Services pursuant to that Agreement to develop the content and explain the implications of those guidelines, by commenting on each guideline individually and illustrating them with examples. It is intended to be used by everyone who is involved in the drafting of the most common types of Community acts. Furthermore, it should serve as inspiration for any act of the institutions, whether within the framework of the Community Treaties or within that of the titles of the Treaty on European Union relating to the common foreign and security policy and police and judicial cooperation in criminal matters.

The Joint Practical Guide is to be used in conjunction with other more specific instruments, such as the Council's Manual of Precedents, the Commission's Manual on Legislative Drafting, the Interinstitutional style guide published by the Office for Official Publications of the European Communities or the models in LegisWrite. In addition, it will always be useful and often indispensable to refer to the relevant provisions of the Treaties and the key basic acts in a specific field.

Staff of the three institutions are urged to use the Guide and to contribute to it with their comments. These may be sent at any time to the Interinstitutional Group on the quality of drafting, which will keep the Guide updated.

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<sup>1</sup> Council Resolution of 8 June 1993 on the quality of drafting of Community legislation (OJ C 166, 17.6.1993, p. 1).  
Commission: General guidelines for legislative policy, document SEC(1995) 2255/7, 18 January 1996.

<sup>2</sup> Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation (OJ C 73, 17.3.1999, p. 1).

The three Legal Services hope that the Guide will assist all those involved, in any way, in drafting legislative acts within the institutions. They will all be able to work towards the common goal of presenting to European citizens legislation which makes clear the objectives of the European Union and the means it deploys to attain them.

For the Legal Service  
of the European Parliament

  
Monsieur G. GARZÓN CARIANA  
Jurisconsulte

For the Legal Service  
of the Council

  
Monsieur J.-C. PIRIS  
Jurisconsulte

For the Legal Service  
of the Commission

  
Monsieur J.-L. DEWOST  
Directeur général

*Bruxelles, le 16 Mars 2018*

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General principles  
Guidelines 1 to 6

1. LEGAL ACTS OF THE UNION SHALL BE DRAFTED CLEARLY, SIMPLY AND PRECISELY\*.
  - 1.1. The drafting of a legal act must be:
    - clear, easy to understand and unambiguous;
    - simple and concise, avoiding unnecessary elements;
    - precise, leaving no uncertainty in the mind of the reader.
  - 1.2. This common sense principle is also an expression of general principles of law, such as:
    - the equality of citizens before the law, in the sense that the law should be accessible to and comprehensible for everyone,
    - legal certainty, in that it should be possible to foresee how the law will be applied.
  - 1.2.1. The principle is particularly important in respect of legal acts of the Union, which must fit into a system which is complex, multicultural and multilingual (see Guideline 5).
  - 1.2.2. The aim in applying this principle is twofold: first, to render acts more comprehensible;  
second, to avoid disputes resulting from poor drafting.

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\* In this edition of the Joint Practical Guide, the wording of this Guideline has been adapted to take account of the changes introduced by the Lisbon Treaty.

- 1.3. Provisions that are not drafted clearly may be interpreted restrictively by the Court of Justice of the European Union. If that happens, the result will be the opposite of what was intended by the incorporation into the text of ambiguous wording intended to resolve problems in negotiating the provision<sup>1</sup>.
- 1.4. It is acknowledged that the requirement that a text be both simple and precise may create a conflict. Simplification is often achieved at the expense of precision and vice versa. In practice, a balance must be struck so that the provision is as precise as possible, whilst remaining sufficiently easy to understand. That balance may vary depending on the addressees of the provision (see Guideline 3).

Example of a text which did not achieve this balance:

"A compulsory [product] labelling system shall be introduced and shall be compulsory in all Member States from 1 January 2000 onwards. However, this compulsory system shall not exclude the possibility for a Member State to decide to apply the system merely on an optional basis in respect of [the product] sold in that same Member State."

- 1.4.1. In order to be able to express the legislative intention in simple terms, the drafter should try to break it down into simple concepts. Whenever possible, every-day language should be used. Where necessary, clarity of expression should take precedence over considerations of style. For example, the use of synonyms and different expressions to convey the same idea should be avoided.
- 1.4.2. Drafting which is grammatically correct and complies with the rules of punctuation makes it easier to understand the text properly in the drafting language as well as to translate it into the other languages (see Guideline 5).
2. THE DRAFTING OF UNION ACTS SHALL BE APPROPRIATE TO THE TYPE OF ACT CONCERNED AND, IN PARTICULAR, TO WHETHER OR NOT IT IS BINDING (REGULATION, DIRECTIVE, DECISION, RECOMMENDATION, OR OTHER ACT)\*.
- 2.1. The various legal acts each have their own standard presentation and standard formulations (see Guideline 15).
- 2.2. The drafting style should take account of the type of act.
  - 2.2.1. Since Regulations have direct application and are binding in their entirety, their provisions should be drafted in such a way that the addressees have no doubts as to the rights and obligations resulting from them: references to intermediary national authorities should therefore be avoided, except where the act provides for complementary action by the Member States.

Example:

"Every company shall keep a register ..."

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<sup>1</sup> See Case C-6/98 *ARD v Pro Sieben* [1999] ECR I-7599.

\* In this edition of the Joint Practical Guide, the wording of this Guideline has been adapted to take account of the changes introduced by the Lisbon Treaty.



2.2.2. Directives are addressed to the Member States:

Example:

"Member States shall ensure that every company keeps a register ..."

Furthermore, they are drafted in a less detailed manner in order to leave Member States sufficient discretion when transposing them. If the enacting terms are too detailed and do not leave such discretion, the appropriate instrument is a regulation, rather than a directive.

2.2.3. Decisions should be drafted to take account of their addressees, but they should still, for the most part, comply with the formal rules of presentation for acts of general application:

Example:

"[The Member State] may receive financial assistance from the Union relating to the outbreak of African swine fever which was confirmed on ..."

2.2.4. The language of recommendations must take account of the fact that their provisions have no binding force:

Example:

"It is recommended that Member States ..."

2.3. The manner in which an act is drafted should also take account of whether the act is binding.

2.3.1. The choice of verb and tense varies between different types of act and the different languages, and also between the recitals and the enacting terms (see Guidelines 10 and 12).

2.3.2. In the enacting terms of binding acts, French uses the present tense, whilst English generally uses the auxiliary "shall". In both languages, the use of the future tense should be avoided wherever possible.

2.3.3. By contrast, in non-binding acts, imperative forms, or a structure or presentation too close to that of binding acts, must not be used.

3. THE DRAFTING OF ACTS SHALL TAKE ACCOUNT OF THE PERSONS TO WHOM THEY ARE INTENDED TO APPLY, WITH A VIEW TO ENABLING THEM TO IDENTIFY THEIR RIGHTS AND OBLIGATIONS UNAMBIGUOUSLY, AND OF THE PERSONS RESPONSIBLE FOR PUTTING THE ACTS INTO EFFECT.

3.1. There are different categories of addressees of legal acts, ranging from the general public to specialists in particular fields. Each category is entitled to expect to be able to understand the language used.

- 3.2. Taking into account the different categories of addressees may result in adjustments to both the statement of reasons and the enacting terms of those acts.
- 3.3. Ease of transposition of acts also depends on it.
- 3.4. In addition to the addressees, acts may require intervention by national authorities at different levels, for example, by civil servants, scientists and judges. The language of the act should take account of the fact that texts may include technical requirements the task of implementing which falls to specialised officials in that field.

Example of targeted drafting:

"Article 3

Counterfeit Analysis Centre and counterfeit currency database

1. The Counterfeit Analysis Centre (CAC) and the counterfeit currency database (CCD) of the ESCB shall be established by and shall be run under the aegis of the ECB. The establishment of the CAC is intended to centralise the technical analysis of and data relating to the counterfeiting of euro banknotes issued by the ECB and the NCBs. All relevant technical and statistical data concerning the counterfeiting of euro banknotes shall be centrally stored in the CCD.

2. ...

3. Subject to legal constraints, the NCBs shall provide the CAC with originals of new types of counterfeit euro banknotes in their possession, for the purposes of technical investigation and central classification. The preliminary assessment of whether a specific counterfeit belongs to a classified type or to a new category shall be carried out by the NCBs."

4. PROVISIONS OF ACTS SHALL BE CONCISE AND THEIR CONTENT SHOULD BE AS HOMOGENEOUS AS POSSIBLE. OVERLY LONG ARTICLES AND SENTENCES, UNNECESSARILY CONVOLUTED WORDING AND EXCESSIVE USE OF ABBREVIATIONS SHOULD BE AVOIDED.
  - 4.1. The characteristic of good legislative style is the succinct expression of the key ideas of the text. Illustrative clauses, intended to make the text clearer for the reader, may give rise to interpretation problems.
  - 4.2. The text should be internally consistent.
    - 4.2.1. The scope must be respected throughout the act. Rights and obligations must not go beyond what is stated to be covered by the act or extend to other fields.
    - 4.2.2. Rights and obligations must be coherent and not contradictory.
    - 4.2.3. A text that is essentially temporary must not include provisions of a permanent nature.
  - 4.3. Acts should also be consistent with other Union acts.
    - 4.3.1. In particular, overlaps and contradictions with respect to other acts within a given field must be avoided.
    - 4.3.2. Doubts as to the applicability of other acts must also be avoided (see also Guideline 21).
  - 4.4. Sentences should express just one idea and, insofar as they comprise more than one sentence, articles must group together a number of ideas having a logical link between them. Texts must be broken down into easily assimilated subdivisions (see table in Guideline 15) following the progression of the reasoning, since an excessively compact block of text is both hard on the eye and hard for the mind to take in. This must not, however, result in sentences being broken up unnaturally and excessively.
  - 4.5. The structure of each article must be as simple as possible.
    - 4.5.1. It is neither necessary for interpretation, nor desirable in the interest of clarity, for a single article to cover all the rules relating to a particular aspect. It is often better to deal with them in several articles grouped together in a single section (see Guideline 15).
    - 4.5.2. Particularly in the initial stages of drafting an act, articles should not be too complex in structure. Drafts and proposals for acts will be subject to deliberations and negotiations throughout the adoption procedure which, in most cases, will result in further additions and refinements. Subsequent amendments of the act, of which there are often many, will also be difficult to incorporate if the articles are already overloaded.

Example of a text not complying with those principles:

- "4 . Member States may take measures to derogate from paragraph 2, in respect of a given information society service, if the following conditions are fulfilled:
- (a) the measures shall be:
    - (i) necessary for one of the following reasons:
      - public policy, in particular the prevention, investigation, detection and prosecution of criminal offences, including the protection of minors and the fight against any incitement to hatred on grounds of race, sex, religion or nationality, and violations of human dignity,
      - the protection of public health,
      - public security, including the safeguarding of national security and defence,
      - the protection of consumers, including investors;
    - (ii) taken against a given information society service which prejudices the objectives referred to in point (i) or which presents a serious and grave risk of prejudice to those objectives;
    - (iii) proportionate to those objectives;
  - (b) before taking the measures in question and without prejudice to court proceedings, including preliminary proceedings and acts carried out in the framework of a criminal investigation, the Member State has:
    - asked the Member State referred to in paragraph 1 to take measures and the latter did not take measures, or they were inadequate,
    - notified the Commission and the Member State referred to in paragraph 1 of its intention to take such measures."

4.6. It is sometimes easier to draft complicated sentences than to make the effort to summarise content which results in clear wording. However, this effort is essential in order to achieve a text which can be easily understood and translated.

4.7. The extent to which abbreviations should be used depends on the potential addressees.  
The abbreviations should be familiar to them or their meaning clearly explained the first time they are used, (for example: "the European Central Bank (ECB)"; "the European supervisory authorities (the ESAs)").

5. THROUGHOUT THE PROCESS LEADING TO THEIR ADOPTION, DRAFT ACTS SHALL BE FRAMED IN TERMS AND SENTENCE STRUCTURES WHICH RESPECT THE MULTILINGUAL NATURE OF UNION LEGISLATION; CONCEPTS OR TERMINOLOGY SPECIFIC TO ANY ONE NATIONAL LEGAL SYSTEM ARE TO BE USED WITH CARE\*.
- 5.1. The person drafting an act of general application must always be aware that the text has to satisfy the requirements of Council Regulation No 1, which requires the use of all the official languages in legal acts. That entails additional requirements beyond those which apply to the drafting of a national legislative text.
- 5.2. First, the original text must be particularly simple, clear and direct, since any over-complexity or ambiguity, however slight, could result in inaccuracies, approximations or complete mistranslations in one or more of the other Union languages.

Example of drafting to be avoided:

"The market prices of product X shall be the prices ex-factory, exclusive of national taxes and charges:

- (a) of the fresh product packaged in blocks,
- (b) raised by an amount of EUR X to take account of the transport costs necessary"

In such a case, it would be better to avoid using a list and to present the text as follows:

"The market prices of product X shall be the prices ex-factory of the fresh product packaged in blocks, exclusive of national taxes and charges.

Those prices shall be raised by an amount of EUR X to take account of the transport costs necessary."

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\* In this edition of the Joint Practical Guide, the wording of this Guideline has been adapted to take account of the changes introduced by the Lisbon Treaty.

- 5.2.1. Shortened or elliptical turns of phrase should be avoided. It is a false economy to use them to convey a message so complex that an explanation is called for.

Example of drafting to be avoided:

"If products do not satisfy the requirements laid down in Article 5, the Member States shall take all necessary measures to restrict or prohibit the marketing of those products or to ensure they are withdrawn from the market, subject to penalties for the other eventuality decided on by the Member States."

Better drafting:

"If products do not satisfy the requirements laid down in Article 5, the Member States shall take all necessary measures to restrict or prohibit the marketing of those products or to ensure they are withdrawn from the market.

Member States shall determine the penalties to be applied in the event of failure to comply with those restrictions or prohibitions or withdrawal from the market."

- 5.2.2. Overly complicated sentences, comprising several phrases, subordinate clauses or parentheses (interpolated clauses) should also be avoided.

Example of drafting to be avoided:

"All parties to the agreement must have access to the results of the work, subject to the understanding that research institutes have the possibility to reserve use of the results for subsequent research projects."

Better drafting:

"All parties to the agreement shall have access to the results of the work.

However, research institutes may reserve use of the results for subsequent research projects."

- 5.2.3. The grammatical relationship between the different elements of the sentence must be clear. There should be no doubt, for example, as to whether an adjective relates to a single noun or to several.

Example of drafting to be avoided:

"... public parks and hospitals."

Better drafting:

"... Public parks and public hospitals."

- 5.2.4. Jargon, certain vogue words and certain Latin expressions used in a sense other than their generally accepted legal meaning should also be avoided.

- 5.3. In addition, the use of expressions and phrases – in particular legal terms – that are too specific to a particular language or national legal system, will increase the risk of translation problems.

The following two points, in particular, must be borne in mind by drafters.

- 5.3.1. Certain expressions which are quite common in the language in which the text is drafted may not necessarily have an equivalent in other Union languages. In those languages, they can therefore only be translated using circumlocutions and approximations, which result in semantic divergences between the various language versions. Expressions which are too specific to a particular language should therefore be avoided, as far as possible.

- 5.3.2. As regards legal terminology, terms which are too closely linked to a particular national legal system should be avoided.

Example:

The concept of "faute", which is well known in French law, has no direct equivalent in other legal systems (in particular, English and German law); depending on the context, terms such as "illégalité" and "manquement" (in relation to an obligation) etc., which can easily be translated into other languages ("illegality", "breach", etc.), should be used instead.

- 5.4. The aim is that, as far as possible, and taking account of the specific nature of Union law and of its terminology, acts should be perceived by those called on to apply or interpret them in each Member State (officials, judges, lawyers, etc.) not as translations in a negative sense but as texts which conform to a certain legislative style. Texts peppered with borrowed words, literal translations or jargon which are hard to understand are the source of much of the criticism of Union law, and result in it being regarded as alien.
- 5.5. Finally, two essentially practical comments must be made concerning the relationship between the original text and translations of it.
- 5.5.1. First, drafters must ensure that translators can immediately identify the sources drawn on in the original text. If a passage in the original text is based on existing wording (for example, in a Treaty, directive, regulation, etc.) that must be clear from the text or indicated separately, where necessary by appropriate electronic means. There is a risk that any hidden quotations which do not mention their source will be translated freely in one or more languages, even though the author specifically intended to use the same wording as an existing provision.
- 5.5.2. Second, drafters should realise that comments from translators and, more generally, all departments which carry out a linguistic check of the text can be extremely useful. Such checks provide an opportunity to identify any errors and ambiguities in the original text, even after a lengthy gestation period and—perhaps especially—when the drafting has been the subject of much discussion between a number of people. The problems encountered may then be brought to the attention of the author. In many cases, the best solution will be to alter the original text, rather than the translation.



6. THE TERMINOLOGY USED IN A GIVEN ACT SHALL BE CONSISTENT BOTH INTERNALLY AND WITH ACTS ALREADY IN FORCE, ESPECIALLY IN THE SAME FIELD.

IDENTICAL CONCEPTS SHALL BE EXPRESSED IN THE SAME TERMS, AS FAR AS POSSIBLE WITHOUT DEPARTING FROM THEIR MEANING IN ORDINARY, LEGAL OR TECHNICAL LANGUAGE.

- 6.1. In order to aid comprehension and interpretation of a legal act, it must be consistent. A distinction can be drawn between formal consistency, which concerns only questions of terminology, and substantive consistency in a broader sense, which concerns the logic of the act as a whole.

#### Formal consistency

- 6.2. Consistency of terminology means that the same terms are to be used to express the same concepts and that identical terms must not be used to express different concepts. The aim is to leave no ambiguities, contradictions or doubts as to the meaning of a term. Any given term is therefore to be used in a uniform manner to refer to the same thing, and another term must be chosen to express a different concept.
  - 6.2.1. This applies not only to the provisions of a single act, including the annexes, but also to the provisions of related acts, in particular to implementing acts and to all other acts in the same field. In general, terminology must be consistent with the legislation in force.
  - 6.2.2. Words must be used in their ordinary sense. If a word has one meaning in everyday or technical language but a different meaning in legal language, the phrase must be formulated in such a way as to avoid any ambiguity.
  - 6.2.3. In the interests of precision and to avoid problems of interpretation, it may be necessary to define a term (see Guideline 14)

#### Substantive consistency

- 6.3. Consistency of terminology must also be checked with regard to the content of the act itself. There must be no contradictions inherent in the act.
- 6.4. Definitions must be respected throughout the act. Defined terms must be used in a uniform manner and their content must not diverge from the definitions given.

Different parts of the act  
Guidelines 7 to 15

7. ALL ACTS OF GENERAL APPLICATION SHALL BE DRAFTED ACCORDING TO A STANDARD STRUCTURE (TITLE – PREAMBLE – ENACTING TERMS – ANNEXES, WHERE NECESSARY).\*
- 7.1. The “title” comprises all the information in the heading of the act which serves to identify it. It may be followed by certain technical data (reference to the authentic language version, relevance for the EEA, serial number) which are inserted, where appropriate, between the title proper and the preamble.
- 7.2. "Preamble" means everything between the title and the enacting terms of the act, namely the citations, the recitals and the solemn forms which precede and follow them.
- 7.3. The "enacting terms" are the legislative part of the act. They are composed of articles, which may be grouped into parts, titles, chapters and sections (see table in Guideline 15), and may be accompanied by annexes.

Specific Guidelines deal with the respective parts of the standard structure.

8. THE TITLE OF AN ACT SHALL GIVE AS SUCCINCT AND FULL AN INDICATION AS POSSIBLE OF THE SUBJECT MATTER WHICH DOES NOT MISLEAD THE READER AS TO THE CONTENT OF THE ENACTING TERMS. WHERE APPROPRIATE, THE FULL TITLE OF THE ACT MAY BE FOLLOWED BY A SHORT TITLE.

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\* In this edition of the Joint Practical Guide, the wording of this Guideline has been adapted to take account of the changes introduced by the Lisbon Treaty.

- 8.1. The title proper, that is to say the wording used in the title to indicate the main subject matter of the act, must, in particular, make it possible to determine who is (and who is not) concerned by the act. It must give as clear an indication as possible of the content of the act. Rather than encumbering the title with extraneous information, drafters should use key-words characteristic of the various fields of Union law (it is useful, in that context, to refer to the analytical structure of the "Directory of European Union legislation in force" which is available in EUR-Lex, the Union law data base).

Drafters must therefore consider what information should appear in the title in order to prompt a reader who is directly concerned (for example, not every farmer, but every apple producer) to read the act in question.

- 8.2. The title of the act must be different from the titles of other acts in force (but see point 8.3).
- 8.3. The title of an act amending earlier acts is a special case. The title is incomplete unless it refers by number to all the acts amended. Without such a reference, it is not possible to find all the amendments to a given act. If the sole purpose of the act in question is to amend another act, either the sequential reference number and title of the act to be amended is mentioned, or its sequential reference number and the specific purpose of the amendment (see points 18.9 and 18.10). In contrast, if the act in question lays down autonomous provisions and consequently amends another act in a purely subsidiary manner, only the number of that act is given (see point 19.3).

#### Short title

- 8.4. A short title for an act is less useful in Union law – where acts are identified by a combination of letters and numbers (for example "(EU) 2015/35") – than in systems which do not have such a system of numbering. In certain cases, however, a short title has come to be used in practice (for example, Regulation (EC) No 1234/2007 = "Single CMO Regulation"). Despite the fact that it may seem a simple solution, referring to acts by a short title creates risks for the accuracy and coherence of legal acts of the Union. This method should therefore only be used in specific cases where it significantly aids the reader's understanding.
- 8.5. The creation of a short title when an act is adopted by adding it after the title of the act should be avoided, since it only renders the title more cumbersome, without actually resolving the question of whether or not the short title should be used, either in the act which created it or in subsequent acts.

While the risks outlined in point 8.4 must always be borne in mind, it is possible to refer to an act by using a short title in order to make it easier to understand the act in which the reference is made. In this case, the short title chosen will have to appear in brackets in the body of the text of the act in which the reference is made, like any other abbreviation.

To summarise:

8.6. The full title of an act comprises:

- (1) an indication of the type of act (regulation, directive, decision, where appropriate "implementing" or "delegated");
- (2) the abbreviation or acronym of the field concerned ('EU', 'CFSP' or 'Euratom'), the year and the sequential reference number of the act <sup>2</sup>;
- (3) the name of the institution or institutions which adopted the act;
- (4) the date of signature (for acts adopted by ordinary legislative procedure, the budget and budget decisions adopted by the European Parliament and the Council) or the date of adoption, as appropriate;
- (5) the title proper, namely a succinct indication of the subject-matter.

9. THE PURPOSE OF THE CITATIONS IS TO SET OUT THE LEGAL BASIS OF THE ACT AND THE MAIN STEPS IN THE PROCEDURE LEADING TO ITS ADOPTION.

9.1. The citations, at the beginning of the preamble, indicate:

- the legal basis of the act, namely the provision which confers competence to adopt the act in question;
- the proposals, initiatives, recommendations, requests or opinions provided for by the Treaties (procedural acts not provided for by the Treaties are mentioned in one of the final recitals<sup>3</sup>); in legislative acts citations are added regarding the transmission of the draft legislative act to national parliaments and the legislative procedure followed (the ordinary legislative procedure or a special legislative procedure).

Drafters should check that items cited are actually citations and that it would not be better to mention them in another part of the act (see points 9.13 and 9.14).

Presentation

9.2. Citations are largely standardised (in English, most commonly beginning with "Having regard to").

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<sup>2</sup> With certain exceptions, all documents published in the "L" series of the Official Journal from 1 January 2015 are numbered consecutively as follows, regardless of the type of act (regulation, directive, decision or other): (Domain) YYYY/N. The numbering given to acts published before that date remains unchanged.

<sup>3</sup> However, for opinions in the context of a committee procedure, see point 10.18.

## Legal basis

- 9.3. The first citation is a general reference to the Treaty which constitutes the general basis for the action that is being taken.

The citation is drafted as follows:

"Having regard to the Treaty on the Functioning of the European Union ...",

"Having regard to the Treaty on European Union" or

"Having regard to the Treaty establishing the European Atomic Energy Community".

If more than one Treaty is to be referred to, they should be cited on separate lines in the following order: Treaty on European Union, Treaty on the Functioning of the European Union, Treaty establishing the European Atomic Energy Community.

- 9.4. If the direct legal basis of the act is a Treaty provision, the general citation of the Treaty is accompanied by the words ", and in particular ", followed by the relevant article<sup>4</sup>.

Example:

"Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,"

- 9.5. If, by contrast, the direct legal basis of the act is to be found in secondary legislation<sup>5</sup>, the act concerned is cited in a second citation, with the relevant article, preceded by the words ", and in particular".

Example:

"Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1026/2012 of the European Parliament and of the Council of 25 October 2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing (...), and in particular Article 4(1)(c) thereof,

(...) OJ L 316, 14.11.2012. p. 34."

<sup>4</sup> Where an act is based on a provision of an Act of Accession, the formulation used is: "Having regard to the Act of Accession of ..., and in particular Article ... thereof" or "..., and in particular Article ... of Protocol No ... thereto."

<sup>5</sup> The citation of the provision of secondary legislation is as follows: the citation sets out the full title, followed by a footnote reference; the footnote gives the Official Journal reference (series, number, date and page).

- 9.6. The legal basis should be clearly distinguished from provisions which determine the purpose, conditions and substantive aspects of the decisions to be taken. Purely procedural provisions (for example, Articles 294 and 218 TFEU) do not constitute legal bases (however, see point 9.7).
- 9.7. International agreements concluded in accordance with the procedure set out in Article 218 TFEU are special cases.

Example:

"Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(6)(a) thereof,"

- 9.8. Where an act sets out, in a series of articles, the purpose of future decisions and indicates in another article the institution empowered to take those decisions, it is the latter article alone which is to be cited.
- 9.9. Similarly, where an act contains within one article a paragraph on the purpose of the measures and another giving power to act, it is only the latter paragraph<sup>6</sup>, rather than the entire article, that is cited

For instance, in adopting detailed rules governing tariff quotas for products subject to market organisation, it is Article 144(1) of Council Regulation (EC) No 1234/2007 which will be cited.

#### Procedural acts

- 9.10. Citations concerning preparatory acts provided for by the Treaties and, in particular, opinions delivered by the European Parliament, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions must be followed by a footnote reference, the footnote showing the edition of the Official Journal in which the act was published (for example: OJ C 17, 22.1.1996, p. 430). If the act has not yet been published, the date of the act should be mentioned.

Example:

"(...) Opinion of 1 April 1996 (not yet published in the Official Journal)."

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<sup>6</sup> Where a paragraph contains two empowering provisions in separate subparagraphs, for example, one for the Council and one for the Commission, the appropriate subparagraph should be cited.

- 9.11. In the case of the ordinary legislative procedure or a special legislative procedure, the citation concerning transmission of the draft legislative act to the national parliaments is as follows:

"After transmission of the draft legislative act to the national parliaments"

The citation referring to the legislative procedure is drafted as follows:

"Acting in accordance with the ordinary legislative procedure" or "Acting in accordance with a special legislative procedure"

In the context of the ordinary legislative procedure, where it is necessary to refer the matter to the conciliation committee and the conciliation has been successful, the citation is drafted as follows:

"Acting in accordance with the ordinary legislative procedure in the light of the joint text approved by the Conciliation Committee on ...,"

The citation referring to the legislative procedure is followed by a footnote indicating all the steps in the procedure.

- 9.12. A procedural citation should be used for certain acts adopted on a legal basis which refers to an adoption procedure contained in another article of the Treaty. For example, Article 132(3) TFEU (legal basis) refers to the procedure laid down in Article 129(4) TFEU. The procedure should be mentioned in a citation similar to that used for the ordinary legislative procedure or a special legislative procedure.

"Acting in accordance with the procedure laid down in Article 129(4) of the Treaty"

#### References which do not constitute citations

- 9.13. When drafting citations, care should be taken to ensure that they refer to either the legal basis, or the procedure. Any reference to the content of provisions other than the legal basis which is necessary for a proper understanding of the enacting terms or in order to check their lawfulness should appear in the recitals. More general references may be made, for background information, in the explanatory memorandum.

- 9.14. The general institutional provisions of the TFEU (for example, Articles 238 and 288), which also apply to the act in question, must not be mentioned in the citations.

N.B: Reference to certain preliminary steps (opinions of technical bodies, consultations which are not provided for by the Treaties) is normally made towards the end of the recitals using formulations such as "*the (name of the body) delivered an opinion ...*", "*the (name of the body) was consulted ...*"

In contrast, the following are found at the end of the citations in an internal agreement, or a decision of the Representatives of the Governments of the Member States meeting within the Council:

*"After consulting the Commission", or*

*"By agreement with the Commission".*

10. THE PURPOSE OF THE RECITALS IS TO SET OUT CONCISE REASONS FOR THE CHIEF PROVISIONS OF THE ENACTING TERMS, WITHOUT REPRODUCING OR PARAPHRASING THEM. THEY SHALL NOT CONTAIN NORMATIVE PROVISIONS OR POLITICAL EXHORTATIONS.
- 10.1. The "recitals" are the part of the act which contains the statement of reasons for its adoption; they are placed between the citations and the enacting terms. The statement of reasons begins with the word "whereas:" and continues with numbered points (see Guideline 11) comprising one or more complete sentences. It uses non-mandatory language and must not be capable of being confused with the enacting terms.
- 10.2. Regulations, directives and decisions must state the reasons on which they are based.  
The purpose is to enable any person concerned to ascertain the circumstances in which the enacting institution exercised its powers as regards the act in question<sup>7</sup>, to give the parties to a dispute the opportunity to defend their interests and to enable the Court of Justice of the European Union to exercise its power of review.
- 10.3. If it is necessary to recall the historical context of the act, the facts should be set out in chronological order. The reasoning in relation to the specific provisions of the act should, as far as possible, follow the order of those provisions.

Ideally, the statement of reasons for an act should set out:

- a succinct statement of the relevant points of fact and of law; and
- the conclusion that it is therefore necessary or appropriate to adopt the measures set out in the enacting terms.

<sup>7</sup> See Case 24/62 *Germany v Commission* [1963] ECR 63.



- 10.4. It is not possible to be more precise about the *content* of a statement of reasons for a legal act of the Union. It is impossible to reduce to a uniform formula the reasoning for general and individual acts covering different fields or adopted in different circumstances.

Certain basic rules for the statement of reasons can, however, be laid down

- 10.5. The recitals should state concisely the reasons for the main provisions of the enacting terms of the act. Accordingly:
- 10.5.1. The recitals should constitute a *genuine statement of reasons*. They should not set out the legal bases (which must be in the citations) nor should they repeat the passage in the provision already cited as the legal basis which empowers the institution to act. Furthermore, recitals which do no more than state the subject-matter of the act or reproduce or even paraphrase its provisions without stating the reasons for them are superfluous or pointless.
- 10.5.2. Recitals which state that certain measures should be taken, without giving reasons for them, must not be included.
- 10.5.3. The statement of reasons should not consist, in whole or in part, merely of a reference to the reasons given for another act<sup>8</sup>.
- 10.6. Naturally, there is no need to give reasons for each individual provision. However, grounds must always be given for repealing an act or deleting a provision (see also point 10.14).
- 10.7. Any recital not serving to give the reasons for the enacting terms should be omitted, subject to certain exceptions; for example, it is usual to state the reasons for using Article 352 TFEU in a final recital, which reads as follows:

"The Treaty does not provide, for the adoption of [this Decision] [...], powers other than those under Article 352 thereof,"

- 10.8. Where a particular legal basis provides for recourse to legal acts without specifying the type ("The Council shall adopt the measures necessary ...") and it is not clear from the content of the measure to be taken which type of Union act is appropriate, it may be useful to give the reasons why the particular type of act has been chosen. If, in a given case, for instance, it would be possible to legislate by means of a directly applicable regulation, the recitals may explain why it is preferable only to adopt a directive, which must be transposed into national law. Drafters must also bear in mind the principles of subsidiarity and proportionality.

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<sup>8</sup> See Case 230/78 *Eridania v Minister of Agriculture and Forestry* [1979] ECR 2749 and Case 73/74 *Papiers Peints de Belgique v Commission* [1975] ECR 1491.

The extent of the obligation to state reasons depends on the nature of the act or provision in question

(a) Acts of general application

10.9. In basic acts, the statement of reasons should seek to expound the general philosophy of the act rather than to give all the reasons for each specific provision. However, specific reasons will be given for a number of individual provisions, either because of their importance or because they are not inherent in that general philosophy.

10.10. In implementing acts, the reasons stated will necessarily be more specific, though an effort should always be made to be concise.

10.11. However, the reasons stated for acts of general application do not need to recount, much less to assess, the facts on the basis of which the act is adopted. In particular, a detailed statement of reasons (including calculations) for provisions setting import duties or agricultural refunds would be impracticable and it is enough simply to refer to the criteria and methods used in the calculations and to indicate the general situation which led to adoption of the act and the general objectives which it is intended to achieve<sup>9</sup>.

(b) Individual acts

10.12. The reasons on which an individual act is based should be stated more precisely.

10.13. That is particularly true of acts which refuse an application. Detailed reasons must also be given in competition decisions, in which complicated situations of law and of fact must be described; since the decision must nevertheless remain clear, an effort should also be made to be concise.

(c) Special provisions

10.14. Particular care needs to be taken with the statement of reasons for certain provisions such as:

- derogations;
- departures from the general scheme of rules;
- exceptions to a general principle, such as retroactive provisions;
- those liable to be prejudicial to certain interested parties; and
- those which provide for entry into force on the day of publication.

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<sup>9</sup> See Case 16/65 *Schwarze v Einfuhr-und Vorratstelle für Getreide und Futtermittel* [1965] ECR 877.

- (d) Statement of reasons concerning the subsidiarity and proportionality of the act
- 10.15. For the principles of subsidiarity and proportionality, a specific statement of reasons should be given.
- 10.15.1. When exercising their legislative powers, the institutions have regard to the principle of subsidiarity and state how they are doing so in the explanatory memorandum and, more succinctly, in the recitals.
- 10.15.2. The text of the "subsidiarity" recital varies from one case to another but, in general, it follows the structure in point 10.15.4. However, it is important to remember the distinction made in Article 5 TEU between areas which fall within the exclusive competence of the Union and those which do not.
- 10.15.3. In areas which fall within the exclusive competence of the Union, all that Article 5(4) TEU requires is compliance with the principle of proportionality. In that case, the recital only contains a reference to proportionality and is worded as follows:
- "In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of (specify the general objective) to lay down rules on (refer to the specific measures governed by the act in question). This (specify the type of act) does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union."*
- 10.15.4. Where the Union does not have exclusive competence, the recital will contain references both to subsidiarity *stricto sensu* and to proportionality, as set out below:
- "Since the objectives of this ... (specify the type of act) ... (if appropriate, specify the objectives) cannot be sufficiently achieved by the Member States ... (give reasons) but can rather, by reason of ... (specify the scale or effects of the action), be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this ... (specify the type of act) does not go beyond what is necessary in order to achieve those objectives."*
- 10.15.5. The models above must be completed and developed on a case by case basis as indicated in brackets, in order to provide a real statement of reasons. It is possible to diverge from them, provided that the need for action at Union level and, as the case may be, the proportionality of the action is evident from the recitals.

#### Recitals relating to delegation of powers and implementing powers

- 10.16. Basic acts that provide for the adoption of delegated acts by the Commission must contain a specific recital that refers to Article 290 TFEU. For the drafting of that recital, as well as the corresponding provisions, the European Parliament, the Council and the Commission have undertaken to refer, insofar as possible, to the standard formulations that those institutions have established together.

- 10.17. Basic acts that provide for the adoption of implementing acts by the Commission (Article 291 TFEU) must contain a specific recital that refers, where applicable, to 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 powers<sup>10</sup>.

#### Reference to consultations

- 10.18. The consultations provided for in Regulation (EU) No 182/2011 are referred to in the preambles to the implementing acts adopted by the Commission.

Consultation of a committee in the context of the examination procedure (Article 5 of the Regulation) always produces legal effects. The fact that a committee has been consulted is not referred to in a citation, but in the final recital.

Example:

'(...) The measures provided for in this Decision are in accordance with the opinion of the [name of the committee],'

In contrast, consultation of a committee in the context of the advisory procedure (Article 4 of the Regulation), is mentioned in the final citation, which is worded as follows:

"After consulting the [name of the committee]".

11. EACH RECITAL SHALL BE NUMBERED.
- 11.1. This practice is justified by obvious considerations of clarity of legislation and ease of reference, both before and after adoption of the text.
- It applies not only to legal acts of general application, but also to all acts of the institutions drafted in solemn form (title, preamble, enacting terms).
- 11.2. The presentation is as follows: "Whereas:
- (1) ...
- (2) ....".
- N.B. Each recital starts with a capital letter and ends with a full stop, except the last recital, which ends with a comma.
- 11.3. A sole recital is not numbered.

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<sup>10</sup> OJ L 55, 28.2.2011, p. 13.

12. THE ENACTING TERMS OF A BINDING ACT SHALL NOT INCLUDE PROVISIONS OF A NON-NORMATIVE NATURE, SUCH AS WISHES OR POLITICAL DECLARATIONS, OR THOSE WHICH REPEAT OR PARAPHRASE PASSAGES OR ARTICLES FROM THE TREATIES OR THOSE WHICH RESTATE LEGAL PROVISIONS ALREADY IN FORCE. ACTS SHALL NOT INCLUDE PROVISIONS WHICH ENUNCIATE THE CONTENT OF OTHER ARTICLES OR REPEAT THE TITLE OF THE ACT.

#### Provisions of a non-normative nature in binding acts

- 12.1. Binding acts should lay down rules, and include provisions setting out the information (for example: the scope and the definitions) necessary to understand and apply those rules correctly. Anything else is superfluous: desires, intentions and declarations do not belong in the enacting terms of a binding act.

The following is an example, from a regulation, of the kind of provision of a non- normative nature, which should be avoided:

*"In order to encourage the use of eco-labelled products, the Commission and other institutions of the Union, as well as other public authorities at national level should, without prejudice to Union law, set an example when specifying their requirements for products."*

This provision clearly expresses a desire which imposes no obligation on its addressees. It therefore belongs not in a binding act but in a communication or recommendation, to accompany the act in question.

#### Provisions which reproduce or paraphrase passages or articles of the Treaties or other acts

- 12.2. The inclusion of such provisions is pointless and leads to legal uncertainty. Let us take the example of an act based on Article 46 TFEU, which is duly referred to in the citations. It is pointless to draft a paragraph which repeats Article 45(1), according to which *"Freedom of movement for workers shall be secured within the Union"*. Drafters must indicate how they intend to implement that provision, and not repeat it. Furthermore, such repetition is dangerous, since any departure from the original wording may give the impression that a different result was intended, and even give rise to a presumption to that effect.

#### Provisions which merely enunciate the content of other articles

- 12.3. Such provisions are commonly worded as follows:

"With a view to establishing that system, the Council shall adopt the measures provided for in Articles 3, 4 and 5."

They should, as far as possible, be avoided, since the articles in question contain all the necessary information concerning their implementation. Furthermore, such a structure can create confusion as to the legal basis for a future implementing measure: is it the article containing the reference, or the article to which reference is made?

## Provisions which repeat the title of the act

- 12.4. Even where it is not possible to avoid using words that form part of the title of the act (for example, in the article which defines the subject matter and scope of the act), there must be some added value, with a more detailed description of the parameters of the text.
13. WHERE APPROPRIATE, AN ARTICLE SHALL BE INCLUDED AT THE BEGINNING OF THE ENACTING TERMS TO DEFINE THE SUBJECT MATTER AND SCOPE OF THE ACT.
- 13.1. The "subject matter" is what the act deals with, whilst its "scope" refers to the categories of situations of fact or of law and the persons to which it applies.
- 13.2. A first article, defining the subject matter and scope, is common in international agreements and is also often found in Union acts. Whether or not it is useful should be decided on a case-by-case basis.
- 13.3. It is certainly not useful if it merely paraphrases the title. In contrast, it may provide the reader with information which, in the interests of brevity, was not included in the title but which makes it possible to determine, from the outset, who is concerned by the act. For precisely that reason, care must be taken not to mislead the reader.

For example, if such an article states that the act applies *"to vehicles having a maximum speed of 25 km/h or more"*, the act in question may certainly contain some provisions which apply only, for example, to vehicles having a maximum speed of 50 km/h, since such a vehicle does in any event fall within the defined scope. In contrast, there must be no provision relating to a vehicle with a maximum speed of, for example, 20 km/h, since, having read the article on scope, the manufacturer or owner of such a vehicle might not read the remainder of the enacting terms.

- 13.4. Sometimes the distinction between scope and definition is not clear. In the following example, the definition also states the scope of the act:

*"Article 1 - For the purposes of this Directive, "vehicle" means any motor vehicle intended for use on the road, with or without bodywork, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails, agricultural or forestry machinery, and public-works vehicles."*

That article could just as easily read: *"Article 1 - This Directive applies to any motor vehicle intended ..."* with the sentence ending with the word *"(vehicle)"*. This solution is normally to be preferred, especially if the act does not have an article establishing other definitions. It makes it possible to state the scope more clearly and more directly.

14. WHERE THE TERMS USED IN THE ACT ARE NOT UNAMBIGUOUS, THEY SHOULD BE DEFINED TOGETHER IN A SINGLE ARTICLE AT THE BEGINNING OF THE ACT. THE DEFINITIONS SHALL NOT CONTAIN AUTONOMOUS NORMATIVE PROVISIONS.

14.1. All terms should be given their meaning in everyday or specialised language. For the sake of legal clarity it may, however, be necessary for the act itself to define words it uses. That is, *inter alia*, true where a term has several meanings but must be understood in only one of them or if, for the purposes of the act, the meaning is to be limited or extended with respect to the normal meaning given to that term. The definition must not be contrary to the ordinary meaning of the term.

A term which has been defined should be used with the same meaning throughout the act.

14.2. The second sentence of the Guideline describes a common drafting error.

14.2.1. An example of poor drafting:

*"(d) "complaint" means any information submitted by ... any person with an interest in the safety of the ship ... unless the Member State concerned deems the... complaint to be manifestly unfounded; the identity of the person lodging ...the complaint must not be revealed to the master or the owner of the ship concerned."*

14.2.2. The underlined part of the sentence is not a definition, but an autonomous normative provision.

14.3. The normative provision must appear alongside the other binding provisions. In our example, the drafter could insert this sentence in the appropriate place in one of the other articles ("*... If the Member State receives a complaint which it does not consider to be manifestly unfounded, ..., it ...*") and adding a second subparagraph with the sentence "*The identity of the person ...*"

14.4. The requirement that definitions must not contain autonomous normative provisions is more than a mere formality. If such provisions are included in the definitions, there is a danger that, since all the normative provisions are not in the same place, the reader will overlook some when interpreting them.

15. AS FAR AS POSSIBLE, THE ENACTING TERMS SHALL HAVE A STANDARD STRUCTURE (SUBJECT MATTER AND SCOPE – DEFINITIONS – RIGHTS AND OBLIGATIONS – PROVISIONS DELEGATING POWERS AND CONFERRING IMPLEMENTING POWERS – PROCEDURAL PROVISIONS – MEASURES RELATING TO IMPLEMENTATION – TRANSITIONAL AND FINAL PROVISIONS).

THE ENACTING TERMS SHALL BE SUBDIVIDED INTO ARTICLES AND, DEPENDING ON THEIR LENGTH AND COMPLEXITY, TITLES, CHAPTERS AND SECTIONS. WHEN AN ARTICLE CONTAINS A LIST, EACH ITEM ON THE LIST SHOULD BE IDENTIFIED BY A NUMBER OR A LETTER RATHER THAN AN INDENT\*.

- 15.1. Many of the textual components of the standard structure of the enacting terms comply with relatively strict rules of presentation. That is the case for the following components:

- (1) the subject matter and scope (see Guideline 13);
- (2) the definitions (see Guideline 14)
- (3) the provisions relating to delegated acts and implementing acts;
- (4) the measures relating to implementation. The provisions concerning the detailed rules and dates for the transposition, by Member States, of a directive follow an established format. Other provisions, for example those concerning penalties to be provided for at national level or legal remedies to be ensured, also have a standard form;
- (5) transitional and final provisions. This category covers:
  - any repeal of earlier acts (see Guideline 21). If the date of repeal is not the same as the date of entry into force of the act to be adopted, that date should be clearly stated;
  - rules for transition from the old system to the new. The language used and above all the dates mentioned must leave no doubt as to the period during which all or some of the old rules continue to apply, once the new system is in force;
  - provisions amending earlier acts (see Guideline 18);
  - the period during which the act is to apply (see Guideline 20).

- 15.2. The other components – the rights and obligations and procedural provisions, other than those concerning delegated acts and implementing acts – constitute the truly normative part of the act, and their form depends on the objective of the act and the degree of complexity of the system provided for.

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\* In this edition of the Joint Practical Guide, the wording of this Guideline has been adapted to take account of the changes introduced by the Lisbon Treaty.



- 15.3. Where an article contains a list, care must be taken to ensure that each of its elements is co-ordinated and relates directly to the introductory words. To that end, it is preferable to avoid inserting autonomous sentences or subparagraphs in a list.

Example of drafting to be avoided:

"The competent authorities shall carry out checks in order to ensure:

- consistency between purchases and deliveries,

They shall conduct the inspection in particular by reference to processing coefficients provided for by Union law, where they exist. In all other cases, inspection shall rely on the coefficients generally accepted by the industry concerned,

- the correct end use of the raw materials,
- compliance with Union law."

In such a case, it would be better to avoid using a list and to present the text as follows:

"The competent authorities shall carry out checks in order to ensure consistency between purchases and deliveries.

They shall conduct the inspection in particular by reference to coefficients provided for by Union law, where they exist. In all other cases, inspection shall rely on the coefficients generally accepted by the industry concerned.

The controls shall also be intended to ensure the correct use of raw materials and compliance with Union law."

- 15.4. The structural subdivisions of the enacting terms of a legal act are set out in the table below. Acts with a simple structure are made up of articles and subdivisions of articles. The higher subdivisions of acts begin with chapters, divided, where necessary, into sections. Only when the text is extremely complex can chapters be grouped in titles which, in turn, may be grouped in parts.

Designation	Symbol	Method of reference	Comments
I. Higher subdivisions			These subdivisions may or may not have a title
– Part	Part I, II (or Part One, Part Two)	(in) Part I, II (or Part One, Part Two)	Used (together or individually) in certain long and highly structured texts
– Title	Title I, II Chapter I,	(in) Title I, II	
– Chapter	II (or 1, 2)	(in) Chapter I, II (or 1, 2)	
– Section	Section 1, 2	(in) Section 1, 2	
II. Basic unit			Basic units may or may not have a title
– Article	Sole Article or Article 1, 2	(in the) Sole Article (In) Article 1, 2	Continuous numbering (even where there are higher subdivisions)
or			
– Point	I, II (or A, B) or I. (or A. or 1.)	(in) point I, II (A, B) (in) point I (A or 1)	Used in certain recommendations, resolutions, declarations and statements
III. Lower subdivisions			Subdivisions do not have a title
– Paragraph (numbered)	1., 2. None	In paragraph 1, 2	Independent subdivisions of an article
– Paragraph (unnumbered)	None	In the first, second paragraph	Non-independent element of an article
– Subparagraph	(a), (b) (1), (2) (i), (ii), (iii), (iv)	(in) the first, second subparagraph	Subdivision of a numbered paragraph
– Point	---	(in or at) (point) (a), (b) (in or at) (point) (1), (2) (in or at) (point) (i), (ii)	Generally preceded by an introductory phrase
– Indent	None	In the first indent	Followed by a full stop
– Sentence		In the first sentence, in the second sentence	

Internal and external references  
Guidelines 16 and 17

16. REFERENCES TO OTHER ACTS SHOULD BE KEPT TO A MINIMUM. REFERENCES SHALL INDICATE PRECISELY THE ACT OR PROVISION TO WHICH THEY REFER. CIRCULAR REFERENCES (REFERENCES TO AN ACT OR AN ARTICLE WHICH ITSELF REFERS BACK TO THE INITIAL PROVISION) AND SERIAL REFERENCES (REFERENCES TO A PROVISION WHICH ITSELF REFERS TO ANOTHER PROVISION) SHALL ALSO BE AVOIDED.

Internal and external references

- 16.1. An internal reference refers to another provision of the same act. External references refer to another act, either a Union act or an act from another source.

16.1.1. Example of an internal reference

Provision referring to an annex to the same act

"1. The hazards of a preparation for the environment shall be assessed by one or more of the following procedures:  
  
(a) by a conventional method described in Annex III;"

16.1.2. Example of an external reference:

Provision referring to another act

"...(b) by determining the hazardous properties of the preparation for the environment necessary for appropriate classification in accordance with the criteria set out in Annex VI to Directive ..."

- 16.2. Both internal and external references must be sufficiently precise to enable the reader easily to consult the act to which reference is made.

- 16.3. Particular care must be taken with external references. In particular, the act to which reference is made should be sufficiently clear and accessible to the public.

Principle

- 16.4. A reference should only be used if:

- it makes it possible to simplify the text, by not repeating the content of the provision referred to,
- it does not affect the comprehensibility of the provision, and
- the act referred to has been published or is sufficiently accessible to the public.

- 16.5. References should also be used sparingly in the interests of transparency. It should be possible to read and understand an act without consulting other acts. However, provisions of primary law should not be reproduced in secondary legislation simply to make the act more readable. (see point 12.2).
- 16.6. Before deciding whether it is appropriate to make a reference, the consequences of any subsequent amendments to the act to which reference is to be made should be considered.

#### Comprehensibility

- 16.7. A reference should be worded in such a way that the key element of the provision to which reference is made can be understood without consulting that provision.

Example:

Rather than: "Article 15 applies to exports to countries ...",

use: "The control procedure laid down in Article 15 shall apply to exports to countries ..."

#### Clarity

- 16.8. The facts in, or legal consequences of, a provision to which reference is made should be specified.
- 16.8.1. References made merely by citing another provision in brackets must be avoided.
- 16.8.2. Certain provisions state that a rule applies by analogy or, more correctly, "*mutatis mutandis*". This technique should only be used where it would be disproportionate to reproduce the rule referred to and adapt it. It is important to state as precisely as possible how the rule referred to applies.
- 16.9. The consequences of references introduced by the words "*without prejudice*" are often far from clear. There may, *inter alia*, be contradictions between the act containing the reference, and the act to which reference is made. Such references can generally be avoided by better defining the scope. Furthermore, it is unnecessary to use this formulation to refer to higher-ranking provisions, which apply in any event.

Example:

Rather than: "Without prejudice to Directive 91/414/EEC, the articles on classification, packaging, labelling and safety data sheets of this Directive shall apply to plant protection products.", use: "The articles of this Directive on ... shall apply to plant protection products."

## Citation of the act to which reference is made

16.10. Where one act is to be referred to in another act, the title of the act to which reference is made must be given either in full, with the publication source, or in a short form – in particular if the reference is in the title of the act in which the reference is made or if the act has already been cited.

16.10.1. Where the title of an act is referred to in the title of another act:

- the name of the institution is not repeated if the act referred to was adopted by the institution adopting the act in which the reference is made (however, where several acts are referred to and they were adopted by different institutions, the institutions are always mentioned, even where some of them are the same as the institution(s) adopting the act in which the reference is made);
- the date is omitted, unless the reference is to an act which has no official serial number or publication number;
- words which would render the title of the act in which the reference is made unnecessarily cumbersome, or could lead to confusion, such as "and amending..." or "and repealing..." are also left out, as are indications which may follow the title, such as 'codification', 'recast', etc.;
- no reference is made to the edition of the Official Journal in which the act referred to was published.

16.10.2. **In citations**, which have a solemn character, the *full title of the act*<sup>11</sup> is cited in the body of the text. In the case of directives or decisions to be notified which have been published, the publication number is inserted. The full title is followed by a footnote indicating the edition of the Official Journal in which the act was published. There is no such footnote in the case of the Treaties and other basic acts (for example Acts of Accession and the ACP-EU Partnership Agreement).

Example:

"Having regard to Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (...), and in particular ...

(...) OJ L 65, 11.3.2011, p. 1."

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<sup>11</sup> From 1 July 2013, the reference to the full title includes all the words in the title, such as "and amending" or "and repealing", but not other indications which may follow the title, such as 'codification', 'recast', etc.

16.10.3. **In the rest of the act** (recitals, articles and annexes), a simplified method of reference<sup>12</sup> is used:

- an act to which reference is made for the first time (even if it has already been mentioned in the title) and which has not already been cited in the citations is *referred to by its number and by the name of the institution which adopted it, accompanied by a footnote containing its full title<sup>13</sup> and the edition of the Official Journal in which it was published;*
- where the full title and publication reference of an act has already been indicated in the citations or elsewhere in the text *it is only referred to by number.*

Example:

First reference:

"Regulation (EU) No 211/2011 of the European Parliament and of the Council (...)

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(...) Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ L 65 11.3.2011, p. 1)."

Subsequent references:

"Regulation (EU) No 211/2011."

Certain exceptions to this rule may be necessary, in particular in the case of annexes comprising forms or other documents which may be used in isolation, where it may be necessary to repeat the full title and the publication reference of an act which has already been cited.

16.10.4. It is good legislative practice to mention in the recitals the acts to which reference will subsequently be made in the act. This makes it possible to put the acts in context as necessary and to explain why they are referred to.

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<sup>12</sup> Simplified method of reference introduced on 1 July 2013.

<sup>13</sup> From 1 July 2013, the reference to the full title includes all the words in the title, such as "and amending" or "and repealing", but not other indications which may follow the title, such as 'codification', 'recast', etc.

- 16.10.5. References to other acts in the enacting terms must be confined to those that are absolutely necessary. It should be possible for the reader to understand the enacting terms in isolation, without having to refer to other acts. Potential problems resulting from amendment or repeal of the act to which reference is made must also be avoided.

#### Dynamic references

- 16.11. A reference is dynamic if the provision cited is always understood to be the provision as amended.

16.12. References in the enacting terms of Union acts are, in general, dynamic.

If the act cited is amended, the reference is understood to be to the act as amended. If the act is replaced, the reference is understood as referring to the new act. If the act is repealed and not replaced, any lacunae will have to be filled by means of interpretation. Where acts are recast or codified and articles are renumbered in the process, the changes must be set out in a correlation table, annexed to the codified or recast act.

- 16.13. It is, however, important to be aware that dynamic references may lead to difficulties when construing the legal act concerned, in that the content of the provision making the reference is not predetermined, but varies depending on subsequent amendments to the provision referred to.

#### Static references

- 16.14. A static reference refers to a specific text as it stands on a specific date, by stating the title of the act and the source, and specifying, where appropriate, an amending act.

#### Examples:

"Articles XX of Regulation ...(\*) as amended by Regulation ...(\*\*)."

1. For budgetary and own resources purposes ... the European system of integrated economic accounts in force within the meaning of Article 1(1) of Directive 89/130/EEC, Euratom and the legal acts relating thereto, [in particular Regulations (EEC, Euratom) No 1552/89 and (EEC, Euratom) No 1553/89 and Decisions 94/728/EC, Euratom and 94/729/EC,] shall be the ESA second edition while Decision 94/728/EC, Euratom remains in force.

2. For the purpose of the Member States' reports to the Commission under the excessive deficit procedure laid down in Regulation (EC) No 3605/93, the European system of integrated economic accounts shall be the ESA second edition until the 1 September 1999 reports."

16.15. Where the provision referred to in a static reference is amended or repealed, the provision referring to it may also need to be amended.

16.16. References to legal acts of the Union are dynamic references, unless otherwise stated.

As regards references to legal acts other than those of the Union, it is advisable to state explicitly whether the reference is dynamic or static.

#### Adaptation of references

16.17. It may be necessary for a reference to be adapted where:

- the provision referred to has been deleted and replaced by a new text;
- in the case of a static reference, the provision referred to has been amended;
- an amendment to the provision referred to has unintended repercussions on the provision in which the reference was made.

16.18. For a generalised adaptation, a simple correlation clause is sufficient.

16.18.1. In some cases, it may be appropriate to set out a correlation table in an annex.

Example:

"References to the repealed Directives shall be construed as references to this Directive and be read in accordance with the correlation table set out in Annex IX."

16.18.2. Establishing the correlation to the new provision in textual form is not recommended.

Example of drafting to be avoided:

"In the following provisions, the words ' Article 2(4) and Article 3(1) of Regulation (EEC) No 441/69' are replaced by the words 'Article 4(7) and Article 5(3) of Regulation (EEC) No 565/80':

- Regulation (EEC) No 776/78, second indent of Article 2,
- Regulation (EEC) No 109/80, second indent of Article 1".

#### Circular references

16.19. A circular reference is a reference to another provision which itself refers back to the provision which referred to it. Such references are to be avoided.



## Serial references

- 16.20. A serial reference is a reference to another provision, which itself refers to a third provision, and so on. In the interests of ease of understanding of Union acts, such references are to be avoided.
17. A REFERENCE MADE IN THE ENACTING TERMS OF A BINDING ACT TO A NON- BINDING ACT SHALL NOT HAVE THE EFFECT OF MAKING THE LATTER BINDING. SHOULD THE DRAFTERS WISH TO RENDER BINDING THE WHOLE OR PART OF THE CONTENT OF THE NON-BINDING ACT, ITS TERMS SHOULD AS FAR AS POSSIBLE BE SET FORTH AS PART OF THE BINDING ACT.
- 17.1. The first sentence of this Guideline is merely a statement of fact. For example: If a decision is adopted as a result of a resolution, the decision is the binding act and the resolution remains a political act, with no legal binding force.
- 17.2. The second sentence of this Guideline applies, in particular, to technical standards, which are often drawn up by standardisation bodies or the like. It is often too onerous to reproduce in full a lengthy, non-binding act. This is commonly true, for example, of the description of laboratory tests to be conducted. In such cases, only the act in question is referred to.

Example:

"The tar, nicotine and carbon monoxide yields referred to in Article 3(1), (2) and (3), which must be indicated on cigarette packets, shall be measured on the basis of ISO methods 4387 for tar, 10315 for nicotine, and 8454 for carbon monoxide.

The accuracy of the indications on the packets shall be verified in accordance with ISO standard 8243."

It is clear from the context that it is the intention of the legislator to make the standard referred to compulsory.

- 17.3. It is possible to freeze the reference to the version of the provision in force at the time the binding act was adopted, by indicating the number and the date (or year) of the non-binding act to which reference is made, or by the use of formulations such as "in the version of ..." (see also Guideline 16, static references, dynamic references).

- 17.4. Nevertheless, if control is to be retained over the text of the non-binding act in question, it should be reproduced. If the non-binding act is not set out in full, it is often still useful to maintain the structure, with certain points or passages left blank, if necessary with an explanation in a footnote. Likewise, if points or annexes are to be inserted which did not exist in the act reproduced, they should be numbered "1a", "1b", and so forth. If a point or an annex is inserted before Point 1 or Annex I, it should be Point 0 or Annex 0.

Example:

"3a. EEC TYPE APPROVAL<sup>(1)</sup>

A certificate conforming to that shown in Annex X shall be attached to the  
EEC  
type approval certificate

...

4. SYMBOL OF THE CORRECTED ABSORPTION COEFFICIENT

(4.1.)

(4.2.)

(4.3.)

4.4. To every vehicle conforming to a vehicle type approved under this Directive there shall be affixed, conspicuously and in a readily accessible place ... .

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<sup>(1)</sup> The text of the Annexes is similar to that of Regulation No 24 of the UN Economic Commission for Europe; in particular, where an item of Regulation No 24 has no counterpart in this Directive, its number is given in brackets as a token entry."

Amending acts  
Guidelines 18 and 19

18. EVERY AMENDMENT OF AN ACT SHALL BE CLEARLY EXPRESSED. AMENDMENTS SHALL TAKE THE FORM OF A TEXT TO BE INSERTED IN THE ACT TO BE AMENDED. PREFERENCE SHALL BE GIVEN TO REPLACING WHOLE PROVISIONS (ARTICLES OR SUBDIVISIONS OF ARTICLES) RATHER THAN INSERTING OR DELETING INDIVIDUAL SENTENCES, PHRASES OR WORDS.

AN AMENDING ACT SHALL NOT CONTAIN AUTONOMOUS SUBSTANTIVE PROVISIONS WHICH ARE NOT INSERTED IN THE ACT TO BE AMENDED.

Principle of formal amendment

- 18.1. Partial amendment of an act is usually effected by a formal amendment, that is to say, a textual amendment, to the act itself<sup>14</sup>. The text of the amendment must therefore be inserted into the text to be amended.

Example:

*'Article 1*

Regulation ... is amended as follows:

- (1) Article 13(1) is replaced by the following:

“1. The statistical information required by the Intrastat system ...”;

- (2) Article 23 is amended as follows:

(a) in paragraph 1, points (f) and (g) are deleted;

(b) paragraph 2 is replaced by the following:

“2. Member States may prescribe that ...”;

(c) the following paragraph [2a]\* is inserted:

“2a. In the case of providers of statistical information ...”;

(d) the following paragraph [4]\* is added:

“4. The Commission shall ensure publication in the Official Journal ...”.’

\* See comment in point 18.13.5.

<sup>14</sup> Derogations constitute an exception to this rule: see point 18.14.

- 18.2. Articles, paragraphs or points must not be renumbered, because of the potential problems of references in other acts. Likewise, blanks left by the deletion of articles or other numbered parts of the text should not be filled subsequently by other provisions, except when the content is identical to the text previously deleted.

#### No autonomous substantive provisions

- 18.3. Amending acts must not contain new substantive provisions which are autonomous in relation to the act to be amended. Since the sole legal effect of the new act is to amend the old one, it exhausts its effects upon entry into force. Only the basic act as amended is left in existence and continues to govern the whole matter.
- 18.4. This approach simplifies the codification of legislative texts considerably, since the presence of autonomous provisions within a body of amending provisions leads to a complicated legal situation.

#### No amendment of amending acts

- 18.5. Since an amending act must not contain any autonomous substantive provisions and exhausts its effects by making amendments to another act, amending acts must not be amended. If further amendments are necessary, the basic act as previously amended must again be amended.

#### Example:

Council Decision 1999/424/CFSP of 28 June 1999 amending Decision 1999/357/CFSP implementing common position 1999/318/CFSP concerning additional restrictive measures against the Federal Republic of Yugoslavia is a Decision which amends a Decision (1999/357/CFSP) which, in turn, amended another Decision (1999/319/CFSP).

The title of Decision 1999/424/CFSP should already have indicated that Decision 1999/357/CFSP amended Decision 1999/319/CFSP. Problems also arise as regards the enacting terms of Decision 1999/424/CFSP. It would have been more appropriate to amend Decision 1999/319/CFSP directly.

#### Nature of the amending act

- 18.6. In general, it is preferable for an amending act to be of the same type as the act to be amended. In particular, it is not recommended to amend a Regulation by a Directive.
- 18.6.1. However, certain provisions of primary law leave the choice of the type of act to the institutions, by granting them power to adopt "measures" or by expressly mentioning several possible types of act.
- 18.6.2. In addition, the act to be amended may have provided for amendment by another type of act.

## Amendments to annexes

- 18.7. Amendments to annexes containing technical passages are normally made in an annex to the amending act. This rule may be departed from only when the amendment is a minor one.

Example:

"Annexes II, IV and VI to Regulation ..., are amended in accordance with the Annex to this Regulation."

In this case, the annex to the amending act must include introductory formulations which clearly identify the scope of the amendments:

"ANNEX

Annexes II, IV and VI are amended as follows:

- (1) in Annex II, point 2.2.5 is replaced by the following:

'2.2.5 ...'

However, a simple amendment to an annex may be made directly in the enacting terms of the act:

Example:

"Article ...

Regulation ... is amended as follows:

- (1) ...;

- (2) the title of Annex I is replaced by the following '...'

## Updating of references

- 18.8. If an amendment is to be made to a provision mentioned in a reference, the consequences for the provision in which the reference is made must be considered. If the reference is intended to be to the provision as amended, nothing need be done in the case of a dynamic reference. In the case of a static reference, a consequential amendment will be necessary.

## Titles of amending acts

- 18.9. The title of an amending act must mention the number of the act being amended and indicate either the title of the act, or the purpose of the amendment.

Example:

Act to be amended:

"Council Regulation ... of ... on improving the efficiency of agricultural structures."

Amending act:

– either (title of the act to be amended):

"Council Regulation ... of ... amending Regulation ... on improving the efficiency of agricultural structures."

– or (indication of the purpose of the amendment):

"Council Regulation ... of ... amending Regulation ... as regards the size of agricultural holdings."

- 18.10. If an amending act is adopted by a different institution to the one that adopted the act to be amended, the title of the amending act must indicate the name of the institution which adopted the act to be amended (for more information, see point 16.10.1).

Example:

"Commission Regulation ... amending the Annex to Council Regulation ... as regards ..."

## Drafting an amending act

- 18.11. The recitals to an amending act have to fulfil the same requirements as the recitals to an autonomous act (see Guidelines 10 and 11). However, they have a special purpose in that they are intended only to explain the reasons for the changes made by the amending act: they therefore do not need to repeat the reasons for the act to be amended.
- 18.12. It is not good legislative practice to amend the recitals of the act to be amended. Those recitals set out, in a coherent manner, the reasons for the act at the time it was adopted in its original form. Only by means of codification or recast can the initial reasoning and the reasons for the successive amendments be consolidated coherently, with the necessary adaptations.

18.13. Amendments are made in the form of text inserted into the act to be amended. Amendments must fit seamlessly into the text to be amended. In particular, the structure and terminology of the text to be amended must be maintained.

18.13.1. In the interests of clarity and in view of the problems of translation into all official languages, the replacement of complete units of text (an article or a subdivision of an article) is preferable to the insertion or deletion of sentences or of one or more terms, with the exception of dates and figures.

18.13.2. In the case of multiple amendments, an introductory formulation should be used.

Example:

"Regulation ... is amended as follows: ..."

18.13.3. Where several provisions of the same act are to be amended, all the amendments are combined in a single article, comprising an introductory phrase and points following the numerical order of the articles to be amended.

Example:

Regulation ... is amended as follows:

(1) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. ...";

(b) the following paragraph [5]\* is added:

"5. ...";

(2) the following article [7a]\* is inserted:

*"Article 7a*

*...';*

\* See comment in point 18.13.5

18.13.4. If several acts are amended by a single amending act, the amendments to each act should be set out together in a separate article.

- 18.13.5. The various types of amendment (replacement, insertion, addition, deletion) are made using standard wording.

Example:

"Article X of Regulation ... is replaced by the following: ..."

"the following article [Xa]\* is inserted: ..."

"in Article Y, the following paragraph [X]\* is added: ..."

"in Article Z, paragraph 3 is deleted"

\* The introductory wording may or may not include the number of the subdivision to be inserted or added. In the case of complicated amendments, the indication of the number and, if necessary, other information on the exact location where a new passage is to be inserted may facilitate the analysis of the amending act and future consolidation.

- 18.13.6. In view of the need to avoid autonomous substantive provisions, it is preferable for amendments relating to dates, time-limits, exceptions, derogations, extensions and the temporal application of the act to be inserted into the act to be amended.

#### Substantive amendment

- 18.14. As indicated in point 18.1, where an act is to be amended, this should, as a general rule, be done by formal amendment.
- 18.15. It is possible, however, that, for reasons of urgency or for other practical reasons and for the sake of simplicity, the drafter wishes to include in an act provisions which in fact constitute substantive amendments to another act. Such substantive amendments may concern the scope of the other act, derogations from its obligations, exceptions to the period of application of the act, and so forth.

Example:

"By way of derogation from Article ... of Regulation ..., applications may be made after ..."



18.15.1. As a general rule, and in particular for reasons of transparency, it is preferable to avoid substantive amendments of this kind. When substantive amendment is used, the basic act remains unchanged and the new provisions derogate from it in such a way that the old text, which remains in force, coexists with the new text, which deactivates some of the old text's provisions, alters their scope or adds to them.

18.15.2. Where a substantive amendment has a very limited scope, it is acceptable not to make a textual amendment of the corresponding act. However, if the amendments are significant, a separate amending act must be adopted.

19. AN ACT NOT PRIMARILY INTENDED TO AMEND ANOTHER ACT MAY SET OUT, AT THE END, AMENDMENTS OF OTHER ACTS WHICH ARE A CONSEQUENCE OF CHANGES WHICH IT INTRODUCES. WHERE THE CONSEQUENTIAL AMENDMENTS ARE SUBSTANTIAL, A SEPARATE AMENDING ACT SHOULD BE ADOPTED.

19.1. Sometimes an act with autonomous provisions alters the legal context of a given field to such an extent that other acts governing other areas within the same field need to be amended. To the extent that the amendment is only secondary to the main scope of the act, the juxtaposition of autonomous and amending provisions in the same act does not fall within the prohibition set out in Guideline 18 on the inclusion of autonomous substantive provisions in amending acts.

19.2. In any event, the amendment must be a textual amendment, in accordance with the rule set out in Guideline 18.

19.3. In order for the amendment to be apparent, it must be mentioned in the title of the act, by stating the sequential reference number of the act to be amended (see point 8.3).

Example:

Council Directive 92/96/EEC of 10 November 1992 on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC and 90/619/EEC.

19.4. If the preponderance of amending provisions means that an act that is not primarily intended to be an amending act effectively becomes one, it should be split into two separate acts, for the reasons set out in points 18.3 and 18.4.

Final provisions, repeals and annexes  
Guidelines 20, 21 and 22

20. PROVISIONS LAYING DOWN DATES, TIME-LIMITS, EXCEPTIONS, DEROGATIONS AND EXTENSIONS, TRANSITIONAL PROVISIONS (IN PARTICULAR THOSE RELATING TO THE EFFECTS OF THE ACT ON EXISTING SITUATIONS) AND FINAL PROVISIONS (ENTRY INTO FORCE, DEADLINE FOR TRANSPOSITION AND TEMPORAL APPLICATION OF THE ACT) SHALL BE DRAWN UP IN PRECISE TERMS.

PROVISIONS ON DEADLINES FOR THE TRANSPOSITION AND APPLICATION OF ACTS SHALL SPECIFY A DATE EXPRESSED AS DAY/MONTH/YEAR. IN THE CASE OF DIRECTIVES, THOSE DEADLINES SHALL BE EXPRESSED IN SUCH A WAY AS TO GUARANTEE AN ADEQUATE PERIOD FOR TRANSPOSITION.

20.1. In legal acts of the Union, a distinction is made, depending on the characteristics of the act, between the date of entry into force and the date from which provisions are to have effect. Furthermore, the date of application of the act may be different from the date of entry into force or the date from which provisions are to have effect.

A. Entry into force

20.2. Legislative acts, within the meaning of Article 289(3) TFEU, enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication (see the third subparagraph of Article 297(1) TFEU). The same is true of certain non-legislative acts (see the second subparagraph of Article 297(2) TFEU), i.e. those adopted in the form of regulations, directives which are addressed to all Member States and decisions which do not specify to whom they are addressed.

(a) Date of entry into force

20.3. The entry into force of the act must be set at a specific date or a date determined by reference to the date of publication.

20.3.1. Entry into force cannot be earlier than the date of publication.

20.3.2. Entry into force must not be determined by reference to a date to be set by another act.

20.3.3. The entry into force of an act which forms the legal basis for another act cannot be made conditional on the entry into force of that other act.

20.3.4. No act may enter into force before the date set for the entry into force of the act on which it is based.

20.3.5. The entry into force of an act cannot be made conditional on the fulfilment of a condition of which the general public cannot have knowledge.

- (b) Guidelines for determining the date of entry into force
  - 20.4. There may be practical reasons and urgency considerations which justify entry into force prior to the twentieth day following that of publication. It is primarily for regulations that such a need may arise. The following rules apply.
    - 20.4.1. There must be grounds of urgency for entry into force on the third day following that of publication. In each case it is necessary to check that there is real urgency.
    - 20.4.2. Entry into force on the day of publication must remain a real exception and must be justified by an overriding need – for example, to avoid a legal vacuum or to forestall speculation – closely bound up with the nature of the act (see point 20.6). There must be a specific recital giving appropriate reasons for the urgency, except where the general practice is already well known (for example, in the case of regulations fixing import duties or export refunds).
  - 20.5. The date of publication of an act is the date on which the edition of the Official Journal in which the act is published is actually made available to the public in all the languages at the Publications Office.
- (c) Urgent measures
  - 20.6. The daily and weekly regulations by which the Commission fixes the import duties (and/or the additional duties in certain sectors of agriculture) and refunds applicable to trade with third countries have to be adopted as short a time as possible before they are applied, in particular to avoid speculation.
  - 20.7. It is therefore the practice for these periodic regulations to enter into force on the day of their publication, or on the following working day.
- B. Taking effect
  - 20.8. Directives other than those which are addressed to all Member States and decisions which specify to whom they are addressed do not have a date of entry into force but take effect on *notification* to the addressees (third subparagraph of Article 297(2) TFEU).
- C. Date of application
  - (a) Retroactive application of regulations
    - 20.9. Exceptionally, and subject to the requirements of legal certainty, a regulation may have retroactive effect. The words "*It shall apply from ...*" are then added in a paragraph after the paragraph on entry into force.
    - 20.10. To give retroactive effect to provisions, terms such as "for the period from ... to ...", "From ... to ..." (in the case of tariff quota regulations, for example) or the words "with effect from ..." are often used in articles other than the final article.

(b) Deferred application of regulations

- 20.11. A distinction is sometimes made between the entry into force of a regulation and the application of the arrangements introduced by it, which may be deferred. The purpose of the distinction may be to enable the new bodies provided for in the regulation to be set up immediately and to enable the Commission to adopt implementing measures in respect of which those new bodies have to be consulted.
- 20.12. Should it prove necessary to defer the application of part of a regulation until a date after its entry into force, the regulation must clearly specify the provisions concerned.

Example

"Article ...

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article ... shall apply from ..."

Formulations such as the following, which do not make it possible to determine the date from which the provision in question is to apply, must be avoided:

"This Article shall take effect:

(a) after an agreement has been concluded between the compensation bodies established or approved by the Member States relating to their functions and obligations and the procedures for reimbursement,

(b) from the date fixed by the Commission upon its having ascertained in close cooperation with the Member States that such an agreement has been concluded,

and shall apply for the whole duration of that agreement."

(c) Implementation of directives

- 20.13. A distinction must be made between the date of entry into force or taking effect, on the one hand, and the date of application, on the other, in all cases where the addressees will need time to meet their obligations under the act. This is particularly true of directives. Provisions on implementation will be set out in an article preceding the article concerning the entry into force or, as appropriate, the addressees.

Example:

"Member States [shall take the necessary measures] [shall bring into force the laws, regulations and administrative provisions necessary] to comply with this Directive by ... at the latest. They shall immediately inform the Commission thereof"

- 20.14. In particular in the case of directives designed to ensure the free movement of goods, persons and services, in order to prevent the creation of new barriers by virtue of differences in the application of the Member States' provisions up to the end of the prescribed period for transposition, the date from which national provisions are to apply should be specified.

Example:

"By... Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from ..."

- D. End of period of application or validity
- 20.15 Among the final provisions, an article may specify when the act ceases to apply or to be valid.
- E. Implementation of non-binding acts
- 20.16. Acts which have no binding force, such as recommendations, do not have a date of taking effect or application; the addressees may be requested to give effect to them by a certain date.
- F. Rules relating to calculation of periods
- (a) Indication of the beginning of periods
- 20.17. Save where expressly provided otherwise, a period begins at 00.00 hours on the date indicated<sup>15</sup>. The expressions most commonly used to indicate the beginning of a period are:
- from ... (until/to) ...
  - with effect from
  - shall take effect on
  - shall have effect from
  - shall enter into force on.
- (b) Indication of the end of periods

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<sup>15</sup> See Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

- 20.18. Save where expressly provided otherwise, a period ends at midnight on the date specified. The expressions most commonly used to indicate the end of periods are:
- until/to
  - shall apply until the entry into force of ..., or ..., whichever is the earlier
  - ... at the latest
  - (from ...) until/to
  - shall expire on
  - shall cease to apply on.
21. OBSOLETE ACTS AND PROVISIONS SHALL BE EXPRESSLY REPEALED. THE ADOPTION OF A NEW ACT SHOULD RESULT IN THE EXPRESS REPEAL OF ANY ACT OR PROVISION RENDERED INAPPLICABLE OR REDUNDANT BY VIRTUE OF THE NEW ACT.
- 21.1. If, when adopting an act, the legislator considers that previous acts or provisions should no longer be applied because they have become obsolete, legal certainty requires them to be expressly repealed by the act. An act may be obsolete not only because it is directly incompatible with the new rules, but also, for example, as a result of an extension of the scope of the rules. In contrast, it is not necessary to repeal an act if the period of application specified therein has simply come to an end.
- 21.2. The express repeal of provisions of earlier acts implies that no other provision is repealed, which reduces the risk of uncertainty as to whether rules which previously applied will continue to do so.

22. TECHNICAL ASPECTS OF THE ACT SHALL BE CONTAINED IN THE ANNEXES, TO WHICH INDIVIDUAL REFERENCE SHALL BE MADE IN THE ENACTING TERMS OF THE ACT AND WHICH SHALL NOT EMBODY ANY NEW RIGHT OR OBLIGATION NOT SET FORTH IN THE ENACTING TERMS.

ANNEXES SHALL BE DRAWN UP IN ACCORDANCE WITH A STANDARDISED FORMAT.

A. Annexes in the strict sense

- 22.1. Annexes in the strict sense are used to present material separately from the body of the enacting terms, because it is voluminous or technical or both. Examples of such material might be rules to be applied by customs officers, doctors or veterinarians (such as chemical analysis techniques, sampling methods and forms to be used), lists of products, tables of figures, plans and drawings etc.
- 22.2. Where there are practical obstacles to incorporating technical rules or data in the enacting terms, the recommended practice is to put them in an annex. There must always be a clear reference in the appropriate part of the enacting terms to the link between those provisions and the annex (using phrases such as "listed in the Annex" or "set out in Annex I").
- 22.3. Such an annex is by its very nature an integral part of the act, and there is, therefore, no need to state this in the provision referring to the annex.
- 22.4. The word "ANNEX" must appear at the beginning of the annex, and there will often be no need for any other heading. If there is more than one annex, they should be numbered with roman numerals (I, II, III, etc.).
- 22.5. Although there are no specific rules governing the presentation of annexes, they must nonetheless have a uniform structure and be subdivided in such a way that the content is as clear as possible, in spite of its technical nature. Any appropriate system of numbering or subdivision may be used.

B. Legal acts attached to other acts

- 22.6. An act may have attached (and not "annexed") to it other pre-existing legal acts which it thereby generally endorses. Examples of acts which may be set out in this way are rules of subordinate bodies and international agreements.
- 22.6.1. Such attached acts, in particular international agreements, may themselves have annexes.
- 22.6.2. Such acts are not preceded by the word "ANNEX"



## ANNEX II

### General structure of an act subject to the ordinary legislative procedure

**[REGULATION/DIRECTIVE/DECISION] [(EU)/(EU, Euratom)] [YYYY]/[N]  
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of ...**

**[on ]...**

[(codification)]

[(recast)]

[(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(s)  
... thereof,

[Having regard to the Treaty establishing the European Atomic Energy Community, and in  
particular Article(s) ... thereof,]

[Having regard to the proposal from the European Commission,]

[Having regard to the initiative of ... [names of the Member States],]

[Having regard to the request of the Court of Justice,]

[Having regard to the recommendation from the European Central Bank,]

After transmission of the draft legislative act to the national parliaments,

[Having regard to the opinion of the European Commission,]

[Having regard to the opinion of the Court of Justice,]

[Having regard to the opinion of the European Central Bank,]

[Having regard to the opinion of the Court of Auditors,]

[Having regard to the opinion of the European Economic and Social Committee,]

[Having regard to the opinion of the Committee of the Regions,]

Acting in accordance with the ordinary legislative procedure, [in the light of the joint text approved by the Conciliation Committee on ...,]

Whereas:

(1) ....

(2) ....

(...) ...,

HAVE ADOPTED THIS [REGULATION/DIRECTIVE/DECISION]:

*Article 1*

...

*Article 2*

...

Done at ..., ...

*For the European Parliament  
The President*

...

*For the Council  
The President*

...

*[ANNEX]*