



Brussels, 7 December 2016  
(OR. en)

14910/16

JURINFO 57  
EJUSTICE 197

## NOTE

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From:	Publications Office of the European Union
To:	Working Party on e-Law (e-Law)
No. prev. doc.:	9652/16
Subject:	Consolidation of the European Union legislation and codification - State of play

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### I. Consolidation

1. Consolidation of EU legal acts continues to be done in all official languages. The consolidated texts of regulations, directives, decisions, specific ECB acts, international agreements, etc. are systematically kept up-to-date in 23-24 linguistic versions as soon as an amending act to a legal act is published in the Official Journal and has its applicability in the near future. The produced consolidated texts have no legal effect; however they are extensively used by EU institutions, public and private bodies and citizens. Consolidated documents provide clear and reliable view of the legal provisions which are applicable at certain point in time. In majority of the cases consolidated version of the legal act is produced and published within few weeks after relevant amendments come into force. In addition, consolidated texts serve as the basis of codification<sup>1</sup>.

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<sup>1</sup> Codification is the process of bringing together a legislative act and all its amendments in a single new act. The new act passes through the full legislative process and replaces the acts being codified.

2. By the end of November 2016 there were around 4 600 legal acts in force, which have been amended and therefore undergo regular consolidation (consolidated families). These acts are mainly originating from secondary legislation acts (EUR-Lex sector 3) and international agreements (EUR-Lex sector 2). These consolidated families incorporate more than 18 000 unique acts. In comparison, at the same moment there were 9 750 acts of secondary legislation in force which have not been amended and therefore are not a subject of consolidation.
3. In total around 2 240 000 pages of new consolidated texts were published on EUR-Lex from the beginning of 2016 till the end of November. In comparison, during 2015 the overall consolidation volume was 2 016 000 pages. On average around 40 new consolidated acts are published each week.
4. In addition to the secondary legislation, Publications Office is also producing consolidated versions of the Founding Treaties in the same format as other consolidated acts with enriched mark-ups. This enables users to see in detail which provisions of the consolidated treaty come from which amending acts. Following recent amendments to the Treaties regarding composition of the General Court, new versions of consolidated Treaties were produced and are accessible on EUR-Lex.
5. Attention is drawn to the fact that consolidation is a technical exercise and modifications to the basic act have to be applied strictly following the instructions stated in the modifying act without any interpretation. Therefore it is important that amending acts are drafted in line with the guidelines<sup>2</sup>, since ambiguities and inconsistencies often prevent consolidation until relevant corrigenda is published.

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<sup>2</sup> As specified in the 'Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation'.

## II. Codification

6. The Legal Service of the Commission is responsible for codification task. The codification is achieved through the adoption of a formal EU legal act following the relevant procedures, while repealing all pre-existing texts.
7. In the Interinstitutional Agreement of 13 April 2016 between the European Parliament, the Council of the European Union and the European Commission on better law-making<sup>3</sup>, parties confirmed their commitment to use the legislative technique of recasting<sup>4</sup> for the modification of existing legislation more frequently and where recasting is not appropriate, the Commission will submit a proposal for official codification of legislative texts as soon as possible after the adoption of an amending act.
8. The Legal Service of the Commission informs that in 2016 the Commission has submitted to the European Parliament and the Council a new proposal for a 'technical recast' (i.e. a codification converted into a recast for aligning old comitology provisions with the new system of delegated and implementing acts) relating to a regulation in the field of fisheries, and one codification proposal in relation to one 'Trade Omnibus' regulation. A draft codified version of the EU Trademark Regulation has also been prepared by the Commission and submitted to the European Parliament and the Council in October 2016.
9. Furthermore, a few other codifications are in the pipeline, including a new 'trade omnibus' proposal (codification of the Anti-torture Regulation) that will be prepared as soon as new amendments to the existing act are adopted and published in the Official Journal.

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<sup>3</sup> OJ L 123, 12.05.2016, p. 1.

<sup>4</sup> Recasting is like codification in that it brings together in a single new act a legislative act and all the amendments made to it. The new act passes through the full legislative process and repeals all the acts being recast. But unlike codification, recasting involves new substantive changes, as amendments are made to the original act during preparation of the recast text.