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INST 396  
DELECT 163

**"I/A" ITEM NOTE**

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From: Legal Service  
To: Permanent Representatives Committee (Part 1)/Council  
Subject: Case before the Court of Justice  
C-286/14 European Parliament against Commission  
- Decision to use the written procedure

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1. The European Parliament has introduced an action before the Court of Justice to seek the annulment of Delegated Regulation (EU) No 275/2014 of the Commission, of 7 January 2014, modifying Annex I of Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility<sup>1</sup>.
2. The European Parliament considers that the Commission did not respect the conditions imposed by Article 21(3) of Regulation No 1316/2013 when it adopted the contested Delegated Regulation, as it adopted an act which amends the basic Regulation by adding a new part to its Annex I, whereas the empowerment established in Article 21(3) does not, in the view of the Parliament, allow the Commission to do so since according to its terms, "the Commission shall be empowered to adopt delegated acts (...) detailing the funding priorities to be reflected in the work programmes", without however mentioning that the Commission may do so by amending the basic act, as other empowerments of the basic Regulation do.

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<sup>1</sup> OJ L 80 of 19 March 2014, p. 7

3. In the absence of an explicit empowerment to amend the basic act, the Parliament takes the view that the Commission could only establish the funding priorities to be reflected in the work programmes by means of an autonomous act which supplements the basic Regulation.
4. As this case concerns the interpretation of the terms used in Article 290 TFEU, it is a case of horizontal interest. The Council Legal Service therefore recommends that the Council intervene in the case and support the conclusions of the European Parliament. Following the publication of the case in the Official Journal on 4 August 2014, the deadline for introducing a request to intervene expires on 25 September 2014.
5. In the light of the above, Coreper is invited :
  - to recommend to the Council that it approve the introduction of a request to intervene in Case C-286/14, in support of the conclusions of the European Parliament;
  - to decide to use the written procedure for adopting that decision.

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