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## **CORRECTION OF ERRORS IN LEGAL ACTS OF THE EUROPEAN UNION**

### **Abstract**

The European Union (EU), epitomizing a composite political and economic entity, holds the responsibility for formulating legislation that synergizes the interests and mandates of its Member States. Situated within this expansive bureaucratic architecture, the authentic representation and articulation of overarching policy objectives and legislative aspirations remains an imperative challenge. The metamorphosis from these high-level objectives to the meticulous translation of legislative intent into codified legal documents situates itself at the nexus of theoretical jurisprudence and pragmatic implementation. This analysis seeks to delineate the complexities and procedural methodologies that characterize this pivotal legal metamorphosis.

### **KEYWORDS**

European Union, legislation, corrigenda, correcting acts

## SŁOWA KLUCZOWE

Unia Europejska, legislacja, sprostowanie, obwieszczenia o sprostowaniu aktów prawnych

### I. INTRODUCTION TO EU LEGISLATIVE PROCESSES

The European Union (EU), epitomizing a composite political and economic entity, holds the responsibility for formulating legislation that synergizes the interests and mandates of its Member States. Situated within this expansive bureaucratic architecture, the authentic representation and articulation of overarching policy objectives and legislative aspirations remains an imperative challenge. The metamorphosis from these high-level objectives to the meticulous translation of legislative intent into codified legal documents situates itself at the nexus of theoretical jurisprudence and pragmatic implementation. This analysis seeks to delineate the complexities and procedural methodologies that characterize this pivotal legal metamorphosis.

### II. CHALLENGES IN MAINTAINING LEGAL PRECISION

Within such a framework, even the most rigorous administrative apparatuses are not immune to inadvertent errors, which might manifest themselves as typographical aberrations and incongruences in formatting, translation errors in multilingual jurisdictions or wrong formulation of the original intent.

While ostensibly minor, these discrepancies underscore the profound challenges intrinsic to maintaining legal precision within extensive institutional configurations. This endeavour is further accentuated within the EU, attributed to its operations spanning 24 distinct languages. This linguistic heterogeneity, indicative of the EU's vast cultural tapestry, might occasionally culminate in translational deviations or drafting oversights, inadvertently straying from the quintessential legislative intent. Beyond merely linguistic hurdles, there exists the potential for incongruities during the drafting process, where the foundational intent might not be assiduously mirrored.

In manoeuvring through this complex juridical landscape, the legal institutions of the EU, instrumental to the legislative framework, are persistently confronted with the monumental challenge of achieving both linguistic and legal coherence. Acknowledging the plethora of challenges inherent at both the supra-national

and individual member state echelons, entrenched legal mechanisms have been devised to redress any such discrepancies and assure alignment with the original intent. These mechanisms are diverse, encompassing those addressing elementary administrative oversights to those probing the more profound nuances of legal substance. While certain of these rectificatory approaches are anchored in established legal statutes, others have materialized through progressive jurisprudential traditions, enshrined within procedural guidelines and institutional directives. It is imperative to note that errors can arise not just from translation but also from the intricate process of drafting legal documents. Such drafting errors, while less frequent, can have profound implications on the legal interpretation of the acts.

In light of this context, this article embarks upon a bifurcated investigative trajectory. Primarily, it endeavours to demystify the array of corrective avenues extant within the EU's legislative ambit subsequent to its publication, traversing both established statutory avenues and emergent jurisprudential practices. Following this, the treatise shifts its focus to an assessment of these mechanisms, gauging them against foundational legal tenets, with a pronounced emphasis on ensuring clarity and comprehensibility. At the heart of this scholarly discourse lies the inviolable doctrine that legal instruments, whether in their nascent or amended form, must epitomize transparency and eschew ambiguity, thereby upholding the venerable principle of legal certainty for all implicated parties.<sup>1</sup>

It should be noted, as Fernand Ramos astutely observes,<sup>2</sup> that the number of detected errors in EU documents is substantial. However, this is not necessarily a negative revelation. The high number of detected errors signifies that there is a robust mechanism in place to identify these errors. This is a testament to the efficiency and meticulousness of the system. If such errors were undetected, it would indeed be a matter of greater concern. Drafting errors, in particular, can lead to ambiguities or unintended legal consequences, emphasizing the importance of rigorous quality control during the drafting phase.

Moreover, the fact that these errors are being identified and rectified post-publication indicates the EU's unwavering commitment to maintaining the integrity of its documents. This method of correcting mistakes before they lead to more significant issues underscores a proactive approach to problem-solving.

Considering the massive volume of EU translations since the mid-2000s, assuring quality becomes a daunting task. Given this immense scale, the number of corrections, as Ramos points out, is indeed acceptable. It's a testament to the

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<sup>1</sup> Łukasz Prus, 'Zasada pewności prawa i ochrony uzasadnionych oczekiwań' in Robert Grzeszczak and Aleksandra Szczerba-Zawada (eds), *Prawo administracyjne Unii Europejskiej* (Instytut Wydawniczy Euro Prawo 2016).

<sup>2</sup> Fernando Prieto Ramos, 'Facing translation errors at international organizations: what corrigenda reveal about correction processes and their implications for translation quality' (2020) 41 *Comparative Legilinguistics* 97.

system's resilience that, despite such volume and inherent challenges, the process remains largely effective.

Furthermore, while striving for perfection is paramount, it is important to acknowledge that no system, especially one that handles such an extensive volume of translations, can be entirely devoid of errors. The essence lies in how these errors are addressed and managed. The EU's approach to correcting mistakes after their publication showcases its unwavering dedication to quality and precision.

The act of making these corrections also serves as a tangible reminder of the significance of quality assurance. This is especially relevant when the language services are grappling with productivity pressures. It emphasizes that even though speed is crucial, the quality of translations should never be compromised. So rather than pointing towards a flawed system, the detected errors underscore the EU's dedication to quality, transparency, and the ethos of continuous improvement. It highlights the system's adeptness in managing vast volumes of translations and underscores the pivotal role of both legal and linguistic considerations.

### III. MECHANISMS FOR ERROR CORRECTION IN EU LEGAL ACTS

Correction of different types of errors in legal acts jointly adopted by the European Parliament and the Council, or only by the Council or only by the Commission require different procedures and are done via different means. Depending on whether an error affects the substance or not and depending on the rules applicable in a given EU institution it will be corrected via another legal act or a corrigendum.

In most of the cases, errors in legal acts adopted by the European Parliament and the Council or solely by the Council would be corrected via **corrigenda**. However, in some cases, where the corrected text would have to depart too far away from the original text and at the same time from the point of view of readability and clarity, it would be difficult to correct it via a corrigendum,<sup>3</sup> then such a correction would be published in an **amending act**.

If errors present in the original language version<sup>4</sup> of a Commission act were substantive, they would normally be corrected via a **correcting act**. Similarly,

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<sup>3</sup> Such difficulties occur, e.g. when an amending act introduces bulk changes, i.e. modifies a term across the whole original act and then after its publication the legislator realises that in some provisions the changes did not make sense and they introduced interpretative doubts or even made the provisions impossible to apply.

<sup>4</sup> In most cases, EU legal acts are drafted in English (the other procedural languages not as frequently used are French and German) and they are subsequently translated.

substantive errors, which occurred as a result of translation would also be rectified in a form of a **correcting act**.

This article will first focus on corrective legal acts. Then, it will discuss corrigenda related to the substance. Thirdly, it will examine corrigenda rectifying non-substantive or obvious errors. As there are no legal acts directly regulating correction of errors in EU law and publicly available guidelines and instructions are limited, the analyses will be primarily based on examples.

#### IV. UNDERSTANDING CORRECTIVE LEGAL ACTS IN THE EU FRAMEWORK

Neither the Treaties nor the secondary legislation of the Union define what a legal act correcting another legal act is. There is no description or recommendation on when and how to draft such acts in the EU guide for drafters of legislation.<sup>5</sup> Correcting acts are not specifically mentioned in the Interinstitutional Style Guide<sup>6</sup> either.

However, from the legal point of view acts correcting other acts are no different from amending acts, which are simply legal acts, as defined in Article 288 of the Treaty on the Functioning of the European Union.

Correcting acts have a sole purpose to rectify errors in the act they correct. Nevertheless, there are also legal acts which both correct and at the same time modify the initial act. The intentions are usually clearly marked in the titles of correcting acts. There are, however, also rare cases where corrections are not mentioned in the titles themselves, but they are included in the content of amending acts.

Legal acts of the EU are generally published in the Official Journal of the European Union<sup>7</sup> in all the official languages.<sup>8</sup> One of the biggest differences between standard legal acts and correcting acts is that the latter might concern only several languages and not all. They contain a preamble explaining the reasons why

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<sup>5</sup> Publications Office of the European Union, 'Joint practical guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation' (2015).

<sup>6</sup> Publications Office of the European Union, 'Interinstitutional Style Guide' (2022). This document describes uniform stylistic rules and conventions which must be used by EU entities involved in creating the content of, inter alia, the Official Journal of the European Union.

<sup>7</sup> For more information on the Official Journal of the European Union see Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the Official Journal of the European Union [2013] OJ L69/1.

<sup>8</sup> Official languages of the European Union are governed by Regulation No 1 determining the languages to be used by the European Economic Community [1958] OJ 17/385.

this correcting act is needed, which languages are concerned and mention errors made in the original act. This part would be followed by enacting terms describing modifications brought by this act, its entry into force and, in some cases, an applicability date, if it is distinct from the entry into force date. Naturally, in the language versions in which errors have not been made, the enacting terms will not contain provisions on modification. Instead, there will be a statement that these articles, paragraphs or annexes do not concern this particular language.

## V. EXAMPLES AND THEIR IMPLICATIONS

In order to get a better understanding of the nature and specificities of the correcting acts, in the lack of openly available guidelines or instructions, they need to be analysed. Those presented below picture different types of errors rectified by several types of legal acts adopted in the recent years.

One such example is Commission Regulation (EU) 2023/1199.<sup>9</sup> It corrects errors introduced by Commission Regulation (EU) 2017/1505<sup>10</sup> replacing annexes to Regulation (EC) No 1221/2009 of the European Parliament and of the Council.<sup>11</sup> Different mistakes were discovered in Danish, Hungarian, Italian, Lithuanian and Polish language versions. Other languages were not affected. The preamble of the correcting act explains that the errors changed the substance of certain provisions. The entry into force of this act was twenty days after its publication, being a standard period for regular legal acts of the EU.

Another interesting example is Commission Implementing Decision (EU) 2022/2521.<sup>12</sup> It corrects an error made in the Romanian language of a decision adopted nearly twenty years before, therefore, much earlier than Romania joined the European Union. The corrected act published in this language by mistake

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<sup>9</sup> Commission Regulation (EU) 2023/1199 of 21 June 2023 correcting certain language versions of Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme [2023] OJ L159/1.

<sup>10</sup> Commission Regulation (EU) 2017/1505 of 28 August 2017 amending Annexes I, II and III to Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme [2017] OJ L222/1.

<sup>11</sup> Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC [2009] OJ L342/1.

<sup>12</sup> Commission Implementing Decision (EU) 2022/2521 of 20 December 2022 correcting the Romanian language version of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity [2022] OJ L326/57.

excluded certain products.<sup>13</sup> The entry into force of the correcting act again took place twenty days after its publication.

Commission Implementing Regulation (EU) 2018/353<sup>14</sup> rectifies several serious errors made in all language versions of an act adopted and published the year before. Among the corrected mistakes were repealing the wrong acts, not repealing the correct ones and non-deletion of certain entries which should have been deleted. As it is stated in the preamble of the correcting act, the errors have resulted in some market disturbance.<sup>15</sup> It entered into force on the day of its publication, however, it is applicable retroactively from the day on which the act it corrected entered into force.

The sole reason to adopt Commission Implementing Regulation (EU) 2020/2198<sup>16</sup> was to introduce a missing code related to ethyl alcohol, which was forgotten in all language versions of the corrected legal act. Even though the Commission considered that the error did not raise any concerns,<sup>17</sup> it still decided to rectify it via a correcting act. It entered into force the day after its publication.

Commission Delegated Regulation (EU) 2020/1759<sup>18</sup> introduces an additional type of a trawl, which due to an error, was excluded in all language versions of the initial legal act. The Commission explains that its delegated regulation has a direct impact on the planning of the fishing season of Union vessels and on related economic activities.<sup>19</sup> The entry into force of the correcting act was the day after its publication. However, even though the corrected act applied from January 2018, the Commission decided that its Delegated Regulation (EU) 2020/1759 should apply retroactively only from January 2020.

An example of bulk corrections is Commission Regulation (EU) 2017/1347,<sup>20</sup> which rectifies all language versions of a directive of the European Parliament

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<sup>13</sup> *ibid* recital 1.

<sup>14</sup> Commission Implementing Regulation (EU) 2018/353 of 9 March 2018 correcting Implementing Regulation (EU) 2017/1145 on the withdrawal from the market of certain feed additives authorised pursuant to Council Directives 70/524/EEC and 82/471/EEC and repealing the obsolete provisions authorising those feed additives [2018] OJ L68/3.

<sup>15</sup> *ibid* recital 7.

<sup>16</sup> Commission Implementing Regulation (EU) 2020/2198 of 22 December 2020 correcting Implementing Regulation (EU) 2020/1628 introducing retrospective Union surveillance of imports of renewable ethanol for fuel [2020] OJ L434/52.

<sup>17</sup> *ibid* recital 3.

<sup>18</sup> Commission Delegated Regulation (EU) 2020/1759 of 28 August 2020 correcting Delegated Regulation (EU) No 1394/2014 establishing a discard plan for certain pelagic fisheries in South-Western waters [2020] OJ L397/4.

<sup>19</sup> *ibid* recital 7.

<sup>20</sup> Commission Regulation (EU) 2017/1347 of 13 July 2017 correcting Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EU) No 582/2011 and Commission Regulation (EU) 2017/1151 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to

and of the Council as well as three Commission regulations, all of them related to approval of motor vehicles. Most of the corrections concern technical errors. According to the Commission, it was necessary in order to ensure proper application of the affected legal provisions.<sup>21</sup> Additionally, one of the corrections introduces the date of application of amendments, which seemed to be forgotten in the original act. This Regulation entered into force three days after its publication.

In Commission Regulation (EU) 2020/1181,<sup>22</sup> errors in three languages (Danish, French and Slovak) present in three legal acts were corrected. The initial legal act contains inconsistencies in translations, including translating two very different terms into one and the same term. The problem came from the fact that these words were related to a very significant aspect of the corrected pieces of legislation: fuels. The Commission explains that it rectified three legal acts via a single correcting act, as they form part of a framework, therefore, some of the errors affecting wording of one of the acts automatically affect the others.<sup>23</sup> This legal act entered into force twenty days after its publication.

It seems that the only time the European Parliament and the Council explicitly corrected their legal act via a correcting act is Directive 2005/75/EC.<sup>24</sup> The preamble of the latter specifies that a clerical error prevented the directive being corrected to fully achieve its aim, as certain alignments were not possible to be made. The correcting directive entered into force on the day of its publication with the obligation of transposition on the same future date as the initial act.

Sometimes the Commission decides to correct its earlier act and at the same time to amend it. An example of such a case could be Commission Regulation

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vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Regulation (EC) No 692/2008 [2017] OJ L192/1.

<sup>21</sup> *ibid* recitals 3, 6, 8 and 9.

<sup>22</sup> Commission Regulation (EU) 2020/1181 of 7 August 2020 correcting certain language versions of Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, as well as of systems, components and separate technical units intended for such vehicles (Framework Directive), correcting certain language versions of Commission Regulation (EU) No 582/2011 implementing and amending Regulation (EC) No 595/2009 of the European Parliament and of the Council with respect to emissions from heavy duty vehicles (Euro VI) and amending Annexes I and III to Directive 2007/46/EC of the European Parliament and of the Council, and correcting the Danish language version of Commission Regulation (EU) 2017/2400 implementing Regulation (EC) No 595/2009 of the European Parliament and of the Council as regards the determination of the CO<sub>2</sub> emissions and fuel consumption of heavy-duty vehicles and amending Directive 2007/46/EC of the European Parliament and of the Council and Commission Regulation (EU) No 582/2011 [2020] OJ L263/1.

<sup>23</sup> *ibid* recital 4.

<sup>24</sup> Directive 2005/75/EC of the European Parliament and of the Council of 16 November 2005 correcting Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts [2005] OJ L323/55.

(EU) 2020/1245,<sup>25</sup> which in all language versions corrects the description of the tests to be carried out on plastic materials and articles intended to come into contact with food. It also clarifies the points, which – as the preamble to this act says – could be erroneously interpreted.<sup>26</sup> Additionally, it amends the earlier regulation in order to reflect the newest scientific opinions directly related to the matters of this legal act. The Commission decided to give operators that comply with the corrected regulation the possibility to continue placing the concerned items on the market for some time in the future.

In several examples presented above, mistakes appear in all language versions, which means they were introduced already in the original language in which they were drafted and subsequently reproduced in translations. For this reason, corrections were made in all official languages of the EU. Also looking at responsible departments,<sup>27</sup> one could see they are the same ones which were responsible for the initial (corrected) act. In other words, it is a responsible policy department, and not a translation service, who is in charge of drafting the text.

However, in scenarios where only specific language versions of an initial (corrected) act are riddled with errors, it strongly alludes to missteps during the translation process. Corroborating this hypothesis, as reflected on the EUR-Lex information pages, the Directorate-General for Translation assumes responsibility for the corrective act's drafting.

## VI. DEFINING SUBSTANTIVE ERRORS IN LEGAL ACTS

As already mentioned, correcting acts are adopted only if there are substantive errors in the initial legal acts. But what is a substantive error? Looking at the examples presented above, a very general conclusion can be drawn: it can be any error that affects the substance of the act. The gravity of mistakes can be very different: from erroneous provisions, which did not raise any concern, however for the sake of clarity the Commission decided to rectify them, through possible misinterpretations to those resulting in disturbance of the market. Further clarity as to the meaning of a substantive error can bring the analysis as to what a non-substantive error is, which will be developed in the next part.

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<sup>25</sup> Commission Regulation (EU) 2020/1245 of 2 September 2020 amending and correcting Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food [2020] OJ L288/1.

<sup>26</sup> *ibid* recital 36.

<sup>27</sup> Departments responsible for drafting Commission's legal acts them are mentioned on EUR-Lex (<https://eur-lex.europa.eu>) under Document information/Miscellaneous information.

The practice of the Commission shows that errors present in the original language version directly touching the substance of a Commission act are rectified by the Commission generally following the same procedure which was used for adopting the initial act.<sup>28</sup> To be more precise, if an act has been adopted by an oral or written procedure,<sup>29</sup> the corrections are approved using the written procedure. In case an act has been adopted by an empowerment procedure,<sup>30</sup> the same procedure is used for approving the corrections, provided that the empowerment mandate includes such possibility. If it does not, the written procedure would be used in that case too. If an act has been adopted using the delegation procedure,<sup>31</sup> the same procedure is used for correcting substantive errors present in this act.

In 2022, there were 73 correcting acts published (it includes legal acts which are at the same time correcting and amending). All of them were Commission acts. Looking at the statistics for last years, one can notice that, in general, there is an increasing tendency for using this instrument.<sup>32</sup>

## VII. RECTIFICATIONS THROUGH AMENDING ACTS

As highlighted above, sometimes rectifications are introduced via amending acts without mentioning neither in the title, nor in the text that some provisions correct errors which were introduced in the previous amending act. An example can be found in Regulation (EU, Euratom) No 1023/2013 amending the Staff Regulations of Officials of the European Union.<sup>33</sup> It introduced a new text of article 18(1) of the Staff Regulations correcting erroneous formulation brought by one of the previous amending acts – Regulation (EU, Euratom) No 1080/2010.<sup>34</sup> The latter one included, among others, changes related to the so-called ‘lisbonisation’, i.e. shifting of legal personality from the European Communities to the

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<sup>28</sup> The authors verified numerous documents referred to in the Register of Commission documents: <<https://ec.europa.eu/transparency/documents-register/> accessed> 3 September 2023.

<sup>29</sup> Rules of Procedure of the Commission [2000] OJ L308/28, arts 8 and 12.

<sup>30</sup> *ibid* art 13.

<sup>31</sup> *ibid* art 14.

<sup>32</sup> For instance, in 2000, the Commission published 8 correcting acts. In 2010, there were 11, while 4 years later it was 19 and, in 2018, already 27. Source: EUR-Lex, search performed on 3 September 2023.

<sup>33</sup> Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union [2013] OJ L287/15.

<sup>34</sup> Regulation (EU, Euratom) No 1080/2010 of the European Parliament and of the Council of 24 November 2010 amending the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of those Communities [2010] OJ L311/1.

European Union. It stipulates that the words ‘European Communities’ shall be replaced by ‘European Union’, the words ‘Community’ and ‘Communities’ shall be replaced by ‘Union’ and ‘any necessary grammatical changes shall be made’. As a consequence, Article 18(1) of the basic act would have to have the following wording: ‘All rights in any writings or other work done by any official in the performance of his duties shall be the property of the Union [replacing the word ‘Community’] to whose activities such writings or work relate’. Such a formulation would suggest that there is more than one Union. Moreover, it would not cover the rights relating to officials employed in the service of the European Atomic Energy Community. As this passage had to be completely re-written, a simple corrigendum would have not been a solution and the problem was solved with the next amending act.

The above method of combining amendments and corrections without explicitly mentioning the latter might be challenging for those who do not closely follow developments of a given piece of legislation. They will not be able to easily distinguish them. On the other hand, the purpose of an amending act is to provide for changes to another legal act and corrections can also be seen as changes, therefore, one could argue that this method is equally good to publishing a legal act amending and explicitly correcting errors, even if it is less informative.

## VIII. THE ROLE OF CORRIGENDA IN EU LEGAL CORRECTIONS

In EU law, the term ‘corrigenda’ holds special significance. Derived from the Latin verb *corrigere*, meaning ‘to correct’, a corrigendum (singular of corrigenda) is an official way used by EU institutions to address and rectify errors, oversights, or inconsistencies in previously published legal texts. These errors can range from minor typographical mistakes to more substantial inaccuracies that might affect the interpretation or application of the law.

While the essence of a legal act remains unchanged, corrigenda ensure that the texts maintain their intended clarity, precision, and consistency across all official EU languages. Given the EU’s commitment to multilingualism and the importance of ensuring that its legal acts are coherent and uniformly understood by its diverse citizenry, the role of corrigenda is paramount.

From the formal and strictly legal point of view, corrigenda are not legal acts. Article 288 TFEU does not list them in the closed catalogue of the legal acts of the European Union. There are no acts of secondary legislation which would set out rules concerning the publication of corrigenda, or would refer to their status. Therefore, issuing corrigenda should be considered rather as a convention. This convention is, however, strongly rooted in international law and more precisely in

the Vienna Convention on the Law of Treaties,<sup>35</sup> which in its Article 79 regulates correction of errors in texts or in certified copies of treaties.

Corrigenda are very different from legal acts both in its structure and content. They do not have their own individual title, as they always start with the words ‘corrigendum to’ followed by the name of the legal act they rectify. They do not have their own number, nor any preamble. Their wording is also very peculiar, as usually either they quote a concrete erroneous provision and then say ‘read’ putting the correct text underneath or state that the legal act being corrected ‘should read as follows’. They do not contain a signature and do not have their own date of entry into force. In fact, corrigenda, unlike correcting acts, replace erroneous texts *ab initio*, which is again in line with the Vienna Convention on the Law of Treaties.<sup>36</sup>

Therefore, corrigenda can be viewed as not more or less than information on how a legal act subject to corrections should be read. As rightly pointed out by Michal Bobek,<sup>37</sup> a corrigendum derives its authority, including its legal force, the provisions concerning its temporal application, and also its legitimacy, from the text it rectifies.

The already mentioned Vienna Convention on the Law of Treaties<sup>38</sup> stipulates that the rectification can generally be done via three means: by using an instrument or instruments setting out the correction, by having the correction made in the text or by executing a corrected text by the same procedure as in the case of the original text. Rectification of errors in legal acts of the European Union via corrigenda seems to use quite much the first two ideas: punctually correcting the erroneous texts or republishing the full text of a legal act with corrections included in the text.

Corrigenda are published in the same series of the Official Journal of the European Union as the act they rectify.<sup>39</sup> Those rectifying the same errors can be published in one, multiple or all language versions. The latter case would suggest that the origin of mistakes was already in the language in which the text was drafted and subsequently repeated in translations. When a corrigendum covers less than all the official languages, the mistakes will rather be a result of erroneous translations. There are also corrigenda published at the same time in several languages, however covering different corrections in each language version.

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<sup>35</sup> The Vienna Convention on the Law of Treaties [1969] United Nations Treaty Series 1155/331. It entered into force on 27 January 1980.

<sup>36</sup> *ibid*, art 79.4. stipulates: The corrected text replaces the defective text *ab initio*, unless the signatory States and the contracting States otherwise decide.

<sup>37</sup> Michal Bobek, ‘Corrigenda in the Official Journal of the European Union: Community law at quicksand’ (2009) 34 *European Law Review* 950.

<sup>38</sup> The Vienna Convention on the Law of Treaties, art 79.1.

<sup>39</sup> For more information on the Official Journal of the European Union, see the EUR-Lex page ‘Access to the Official Journal’ <<https://eur-lex.europa.eu/oj/direct-access.html>> accessed 3 September 2023.

## IX. ERRORS CORRECTED BY CORRIGENDA

In order to get a better understanding of the content covered by corrigenda and try to classify types of errors they correct, these corrigenda need to be analysed. Several examples of corrigenda to various types of legal acts adopted by different EU institutions in recent years are presented below.

### 1. CORRIGENDA PERTAINING TO THE GDPR REGULATION

Three corrigenda have been issued concerning the GDPR regulation.<sup>40</sup> The regulation itself was published in the Official Journal of the European Union on 4 May 2016 with the entry into force on 24 May 2016 and the applicability as from 25 May 2018.

The first corrigendum to this act was published on 22 November 2016 and concerns four languages (Estonian, German, Hungarian and Italian).<sup>41</sup> Corrections ranged from one to four per language, primarily addressing incorrect article references or grammatical mistakes.

The second corrigendum was published in all 24 official languages on 23 May 2018,<sup>42</sup> so only two days before this legal act started applying. It brought between 15 corrections on four pages in English to close to 80 corrections on 18 pages in Slovenian. Similarly to the first corrigendum, this one brought many corrections of obvious mistakes, like spelling, missing words, meaningless phrases and, in several cases, it modified imprecise vocabulary. However, in several language versions, among them English, French and Polish, it also slightly changed the conditions on when a data protection officer (DPO) should be appointed. According to the original version of Article 37(1)(c) of GDPR, ‘the core activities of the controller or the processor consist of processing on a large scale of special categories of data pursuant to Article 9 and personal data relating to criminal convictions and offences’. The corrigendum corrected the text, so that ‘and’ became ‘or’.

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<sup>40</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2016] OJ L119/1.

<sup>41</sup> Corrigendum to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2016] OJ L314/72.

<sup>42</sup> Corrigendum to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2018] OJ L127/2.

The third corrigendum was published in 15 language versions, including German, Italian and Polish, on 4 March 2021.<sup>43</sup> It contained between one correction, in Polish and Slovak, to 181 corrections spread across 55 pages in Finnish. Generally speaking, the corrigendum corrected grammar mistakes, removed unnecessary words and corrected the wording in order to make the text internally more coherent and comprehensible. It is pivotal to note that such corrections, while seemingly minor linguistic adjustments, can have profound ramifications for the interpretation and application of the regulations. Precision in language is paramount, especially in a document as critical as the GDPR, which impacts the data protection rights of millions of citizens.

## 2. EXAMPLES OF OTHER CORRIGENDA

A recent example of a corrigendum rectifying – in favour of individuals – conditions for operating on the market is Corrigendum to Regulation (EU) 2021/2117.<sup>44</sup> In the original wording of this legislative act of the European Parliament and the Council it said that wine and wine products which meet certain labelling requirements applicable before December 2023 and which were produced and labelled before that date may continue to be placed on the market until stocks are exhausted.<sup>45</sup> The corrigendum, published in July 2023, in all language versions deleted the words ‘and labelled’, limiting this way the necessary requirements. Such rectifications that operate to the benefit of individuals underscore the flexibility and responsiveness of the EU’s legislative system to current needs and challenges. The altered phrasing can significantly affect producers and suppliers, facilitating a more efficient distribution of products in the market.

Numerous corrigenda to other legal acts of the European Parliament and the Council or to those adopted solely by the Council simply rectify wrong references, codes, dates and numbers. An example can be Corrigendum to Council

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<sup>43</sup> Corrigendum to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2021] OJ L74/35.

<sup>44</sup> Corrigendum to Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union [2023] OJ L192/34.

<sup>45</sup> Reg 2021/2117, art 5(8).

Decision (CFSP) 2023/193,<sup>46</sup> whose sole purpose was to correct a wrong number of an entity in all languages. Another example can be Corrigendum to Council Directive (EU) 2020/262,<sup>47</sup> where again in all language versions a correction to a wrong paragraph was made.<sup>48</sup>

Other corrigenda correct or delete words which are unnecessary. An example can be Corrigendum to Regulation (EU, Euratom) 2022/2434,<sup>49</sup> which in all languages deletes the full erroneous title of a legal act it refers to in the text and replaces it with a short version. Another interesting example is Corrigendum to Regulation (EU) 2020/1784,<sup>50</sup> which inverses the order of certain expressions used in all the language versions of the corrected act.

As already mentioned and pictured in the context of some corrigenda to GDPR, there are also corrigenda only rectifying translation mistakes, in other words, errors which do not appear in the original version. The mistakes were made while translating and appear in particular language versions. An example can be Corrigendum to Regulation (EU) 2018/848,<sup>51</sup> which was published only in Polish and which corrects a reference to a wrong provision: instead of the word

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<sup>46</sup> Corrigendum to Council Decision (CFSP) 2023/193 of 30 January 2023 amending Decision 2014/145/CFSP concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine [2023] OJ L142/42.

<sup>47</sup> Corrigendum to Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty, OJ L188/60.

<sup>48</sup> Other similar examples published in the same period are: Corrigendum to Council Regulation (EU) 2021/1173 of 13 July 2021 on establishing the European High Performance Computing Joint Undertaking and repealing Regulation (EU) 2018/1488 [2023] OJ L116/29, which in all languages introduced corrections of several mistakes concerning references to different legal provisions, Corrigendum to Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility [2023] OJ L137/71, which in all languages corrected an erroneous reference to a paragraph, Corrigendum to Council Regulation (EU) 2023/195 of 30 January 2023 fixing for 2023 the fishing opportunities for certain stocks and groups of fish stocks applicable in the Mediterranean and Black Seas and amending Regulation (EU) 2022/110 as regards the fishing opportunities for 2022 applicable in the Mediterranean and the Black Seas [2023] OJ L137/68, which was published in all EU languages and introduced different corrections in different language versions concerning various codes or Corrigendum to Regulation (EU) 2023/1230 of the European Parliament and of the Council of 14 June 2023 on machinery and repealing Directive 2006/42/EC of the European Parliament and of the Council and Council Directive 73/361/EEC [2023] OJ L169/35, which corrected in all language versions a series of dates.

<sup>49</sup> Corrigendum to Regulation (EU, Euratom) 2022/2434 of the European Parliament and of the Council of 6 December 2022 amending Regulation (EU, Euratom) 2018/1046 as regards the establishment of a diversified funding strategy as a general borrowing method [2023] OJ L84/26.

<sup>50</sup> Corrigendum to Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) [2023] OJ L188/61.

<sup>51</sup> Corrigendum to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 [2023] OJ L204/66 (Polish language version).

‘paragraph’ in the original version it said ‘article’. Another interesting example is Corrigendum to Council Regulation (EU) 2023/1214,<sup>52</sup> which corrects in Danish, German and Polish languages mistakes introduced to this important legal act tightening restrictive measures against Russia in the context of its war against Ukraine. In Polish, the correction concerns a missing text in one of the entries in an annex, which changed a description of certain exclusions. In German, a reference to a wrong annex was rectified. The Danish version of this corrigendum introduces a bulk rectification of a wrongly translated term. It means that this term needs to be corrected across the whole legal act and necessary grammatical adaptations must be made.

When it comes to rectifications made by the Commission, they are very similar to those coming from the co-legislators or from the Council, with the significant exception that the corrigenda correcting Commission legal acts do not affect the substance. An example of rectifications made by the Commission is Corrigendum to Commission Implementing Regulation (EU) 2023/583.<sup>53</sup> It introduces in all language versions a missing address of an entity as well as a missing code. Another recent example is Corrigendum to Commission Implementing Directive 2014/98/EU,<sup>54</sup> which across all languages corrects the name of a species of pests. Corrigendum to Commission Delegated Regulation (EU) 2023/444<sup>55</sup> corrects a date until which the Member States have to produce a report for the Commission. The modification is in favour of the countries, as it changes November into December. These examples show that corrections made by the Commission are generally fairly simple and rectify obvious mistakes.

Similarly to rectifications of errors present in all the languages of Commission legal acts, also correction of translation errors in such acts – according to the

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<sup>52</sup> Corrigendum to Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine [2023] OJ L204/65 (Polish, Danish and German language versions).

<sup>53</sup> Corrigendum to Commission Implementing Regulation (EU) 2023/583 of 15 March 2023 amending Implementing Regulation (EU) 2021/607 imposing a definitive anti-dumping duty on imports of citric acid originating in the People’s Republic of China as extended to imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council [2023] OJ L183/58.

<sup>54</sup> Corrigendum to Commission Implementing Directive 2014/98/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections [2023] OJ L92/28.

<sup>55</sup> Corrigendum to Commission Delegated Regulation (EU) 2023/444 of 16 December 2022 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council with measures to ensure effective access to emergency services through emergency communications to the single European emergency number ‘112’ [2023] OJ L68/182.

rules of this institution – cannot affect the substance.<sup>56</sup> An example can be Corrigendum to Commission Implementing Regulation (EU) 2022/195,<sup>57</sup> which was published only in the Polish language version. The rectification corrects a meaningless sentence and a missing phrase, mistakes which were repeated several times in the regulation, therefore, several passages had to be corrected. Another interesting example is Corrigendum to Commission Delegated Regulation (EU) 2020/1794,<sup>58</sup> which also was published only in Polish. It corrects a mistranslation and gives the proper term in different grammatical forms. Additionally, it rewrites one of the recitals correcting a similar term.

Naturally, errors do not only originate from the decision makers and translation services. As pointed out by Michal Bobek,<sup>59</sup> they can also come from the publisher of the Official Journal of the European Union, including its contracting companies. Mistakes can be introduced, e.g. during proofreading, preparing layout, formatting or assigning a sequential number to a legal act. Often for a reader it is difficult to say where the origin of errors is. A mistake which seems like one that could come from a publisher can be found in Council Implementing Regulation (EU) 2023/1298.<sup>60</sup> The original title of this legal act, as published in the Official Journal of the European Union, was ‘Council Implementing Regulation (EU) 2023/...’, so the sequential number normally assigned to each legal act seems to be forgotten. Corrigendum to this implementing regulation was published in all the official languages three days later and corrected solely the title in its part related to the missing number.<sup>61</sup>

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<sup>56</sup> Commission, ‘Empowerment to correct errors, including minor errors, in translation of acts adopted by the Commission’ SEC(2008)2397.

<sup>57</sup> Corrigendum to Commission Implementing Regulation (EU) 2022/195 of 11 February 2022 amending and correcting Implementing Regulation (EU) 2020/683 as regards the information document, the vehicle approval certificates, the test result sheet and the certificates of conformity in paper format [2023] OJ L65/59 (Polish language version).

<sup>58</sup> Corrigendum to Commission Delegated Regulation (EU) 2020/1794 of 16 September 2020 amending Part I of Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the use of in-conversion and non-organic plant reproductive material [2023] OJ L214/234 (Polish language version).

<sup>59</sup> Michal Bobek, ‘Corrigenda in the Official Journal of the European Union: Community law at quicksand’ (2009) 34 *European Law Review* 950.

<sup>60</sup> Council Implementing Regulation (EU) 2023/1298 of 26 June 2023 implementing Regulation (EU) No 359/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran [2023] OJ L160/1.

<sup>61</sup> Corrigendum to Council Implementing Regulation (EU) 2023/1298 of 26 June 2023 implementing Regulation (EU) No 359/2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran [2023] OJ L163/105.

## X. FORMS OF CORRIGENDA

Before delving into the rectification processes within the European Union institutions, it is pertinent to categorize the different forms of corrigenda. For the purposes of this analysis, we propose three primary forms:

- **listed corrections**, where errors and their corrections are enumerated
- **full republication**, where the entire legal act is republished with corrections integrated
- **annulment**, where the publication of a legal act is declared null and void

It is essential to note that this categorization is an authorial interpretation, stemming from the observed practices and in the absence of strict formal regulations on the matter.

When examining the rectification processes within European Union institutions, it is important to highlight the adaptable nature of corrigenda. While there are common practices and formats, the primary goal of corrigenda is clear and accurate correction of content. Given this, EU institutions have the discretion to tailor corrigenda based on the specific error being addressed. This flexibility ensures that legal clarity and precision are maintained, regardless of the specific format chosen. The most typical form of corrigenda is the one used in the above examples, whereby they contain a list of errors and their corrections. Each entry would refer to the legal provision which is being corrected. This would usually be followed by the word ‘for:’, after which the erroneous provision would be quoted. Subsequently, in the next line the word ‘read:’ would be placed and followed by the correct text or, in some cases, table or graph. There are some deviations from it, one of the examples can be found in Corrigendum to Commission Delegated Regulation (EU) 2023/1149,<sup>62</sup> published only in the Polish language version. It simply states that one of the legal provisions is to be replaced by the text, which is quoted below. It does not mention the erroneous provision.

In some cases corrigenda are published in the form of **full republication** of a legal act. It often takes place when there are too many corrections to be made, which would touch upon nearly the whole text, so rectifying them individually point by point could be confusing. On the one hand, it makes the text much more readable, as it does not require consolidating the corrections within the original text. On the other hand, as the corrections are not marked, it is more difficult to notice straight away what exactly has been rectified. In order to see it, a compar-

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<sup>62</sup> Corrigendum to Commission Delegated Regulation (EU) 2023/1149 of 5 April 2023 correcting the Polish language version of Delegated Regulation (EU) 2022/2292 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of food-producing animals and certain goods intended for human consumption [2023] OJ L163/108 (Polish language version).

ison of the corrected text with the initial one has to be made. An ideal solution would be to present the text in a way that the consolidation service of the Publications Office of the European Union does in case of producing consolidated texts of EU legal acts.<sup>63</sup> Whenever a change is introduced by an amending act or a corrigendum with listed corrections, they would insert such a modification and mark it in the text.

An example of such rectification can be Corrigendum to Council Decision (EU) 2023/992,<sup>64</sup> which republishes the full text of the decision in all language versions. When comparing the corrected version with the original, it can be noticed that mistakes were made practically in every line of the enacting terms, where next to the names of the appointed members of the European Chemicals Agency's management board, nationalities instead of Member States were mentioned. The corrigendum also deleted unnecessary symbols, which were present in each line.

At certain moments of time, corrigenda in the form of full republication were commonly used. William Robinson<sup>65</sup> describes that in 2004 the European Union institutions rushed to publish a large number of legal acts before the accession of ten new Member States. As the time was not sufficient to prepare them according to the usual detailed procedures, they were published in a simplified manner on 30 April 2004. After the accession, 20 issues of the Official Journal containing 2 897 pages had to be republished in their entirety in all the official languages.<sup>66</sup> This was repeated following accession of Bulgaria and Romania in 2007, when republishing as corrigenda was needed to be done in all languages. This time the legal acts contained in 14 Official Journals amounted to 3 225 pages.<sup>67</sup>

Another form of rectification could be called a **corrigendum annulling publication**. Apart from the title, it contains a reference to the Official Journal of the European Union where the legal act it concerns was published as well as a statement that the publication of this act should be considered null and void. This form seems to be used when the whole publication of a legal act was by done by mistake. An example can be Corrigendum to Council Decision (EU) 2023/670<sup>68</sup>

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<sup>63</sup> Consolidation in the EU institutional context means combining the provisions of a basic legal act and all subsequent amendments and corrections it underwent in a single text. Consolidation is a purely declaratory and unofficial simplification of the legislation. Consolidated texts are displayed on EUR-Lex.

<sup>64</sup> Corrigendum to Council Decision (EU) 2023/992 of 16 May 2023 appointing 16 members of the Management Board of the European Chemicals Agency (ECHA) [2023] OJ L141/67.

<sup>65</sup> European Parliament's Legal Affairs Committee, *Drafting European Union legislation* (2012) PE 462.442 (William Robinson's report).

<sup>66</sup> See the detailed list of Official Journals [2024] inside the back cover of OJ L244.

<sup>67</sup> See the detailed list of Official Journals [2007] inside the back cover of OJ L190.

<sup>68</sup> Corrigendum to Council Decision (EU) 2023/670 of 21 March 2023 amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditors of Banc Ceannais na hÉireann/the Central Bank of Ireland [2023] OJ L 89/6.

published on the 27 March 2023. The decision, which was the subject of this corrigendum, was published only four days before and it was supposed to take effect on the date of its notification.<sup>69</sup> This publication was pronounced null and void by the corrigendum. Subsequently, one day after the latter was published in the Official Journal of the European Union, a new version of the decision was promulgated in the same official gazette.<sup>70</sup> Another example could be Corrigendum to Commission Implementing Regulation (EU) No 793/2012,<sup>71</sup> which was published on 7 September 2012. It stated: ‘the publication of Commission Implementing Regulation (EU) No 793/2012<sup>72</sup> is to be considered null and void’. The latter legal act was published the day before. A new version of this legal act was promulgated on 2 October 2012.<sup>73</sup>

In 2022, there were 137 corrigenda published in English, while in Polish there were 166 of them and in French 174. Across the years, there have been differences, however not significant ones.<sup>74</sup>

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<sup>69</sup> Council Decision (EU) 2023/670 of 21 March 2023 amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditors of Banc Ceannais na hÉireann/the Central Bank of Ireland [2023] OJ L84/14.

<sup>70</sup> Council Decision (EU) 2023/714 of 28 March 2023 amending Decision 1999/70/EC concerning the external auditors of the national central banks, as regards the external auditors of Banc Ceannais na hÉireann/the Central Bank of Ireland [2023] OJ L93/96.

<sup>71</sup> Corrigendum to Commission Implementing Regulation (EU) No 793/2012 of 5 September 2012 adopting the list of flavouring substances provided for by Regulation (EC) No 2232/96 of the European Parliament and of the Council, introducing it in Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 1565/2000 and Commission Decision 1999/217/EC [2012] OJ L244/30.

<sup>72</sup> Commission Implementing Regulation (EU) No 793/2012 of 5 September 2012 adopting the list of flavouring substances provided for by Regulation (EC) No 2232/96 of the European Parliament and of the Council, introducing it in Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 1565/2000 and Commission Decision 1999/217/EC [2012] OJ L243/1.

<sup>73</sup> Commission Implementing Regulation (EU) No 872/2012 of 1 October 2012 adopting the list of flavouring substances provided for by Regulation (EC) No 2232/96 of the European Parliament and of the Council, introducing it in Annex I to Regulation (EC) No 1334/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 1565/2000 and Commission Decision 1999/217/EC [2012] OJ L267/1.

<sup>74</sup> For instance, in 2010, there were 74 corrigenda published in English, 101 in French and 125 in Polish. In 2014, there were 112 in English, 175 in French and 161 in Polish. Four years later, there were 103 in English, 119 in French and 139 in Polish. Source: EUR-Lex, accessed 3 September 2023.

## **XI. ADOPTION PROCEDURES IN DIFFERENT EU INSTITUTIONS**

### **1. ADOPTION PROCEDURE AT THE EUROPEAN PARLIAMENT**

Rectification of legal acts adopted by co-legislators at the European Parliament are regulated by the Rules of Procedure of the European Parliament.<sup>75</sup> Its rule no 241 requires the President of this institution to, where appropriate, refer a draft corrigendum to the responsible committee. This document – prepared by a lawyer-linguist of the European Parliament on the basis of a document received from the Council – is then examined by the committee. If the latter agrees with the proposal, it submits it to the Parliament. It is then announced at the next session and it is tacitly approved if within 24 hours a political group or 35 members do not request a vote. In case the corrigendum is not approved, it is sent back to the responsible committee which either presents its amended version or closes the procedure.

### **2. ADOPTION PROCEDURES WITHIN THE COUNCIL OF THE EUROPEAN UNION**

The rules concerning adoption of corrigenda by the other co-legislator are included in the Manual of precedents for acts established within the Council of the European Union<sup>76</sup>.

– First Procedure: This concerns cases when an error was introduced after the signature of a legal act. In such a case, the Council’s lawyer-linguists prepare a corrigendum which is sent to their counterparts in the European Parliament. As soon as the latter agree to the text, it is published in the Official Journal of the European Union.

– Second Procedure: This concerns situations when an error was introduced at earlier stages. The Council’s lawyer-linguists prepare a corrigendum, however this time the text is submitted not only to their counterparts at the European Parliament but also to the delegations of Member States. Once the time limit elapses and there are no objections from either the Parliament or the delegations, with the agreement of the Presidency, the corrigendum is published in the Official Journal of the European Union.

<sup>75</sup> Rules of Procedure of the European Parliament (9<sup>th</sup> parliamentary term) <[https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02_EN.pdf)> accessed December 2019.

<sup>76</sup> Council of the European Union, Manual of precedents for acts established within the Council of the European Union SN 1250/6/10 (REV 6) 176.

– Formal Procedure: There is also a third, the so-called formal procedure, which can be requested. If it is done, the Council on the ministerial level formally adopts the corrigendum, which is subsequently published the same way as in the previous cases.

For the acts adopted solely by the Council, the first two procedures are applicable.

### 3. COMMISSION'S AUTHORITY TO CORRECT LEGAL ACTS

The Commission, as an institution which also adopts legal acts, naturally has the competence to correct them. Corrigenda of Commission legal acts are generally done using the same procedure which was used to adopt the original act.<sup>77</sup> The College of Commissioners, according to its Rules of Procedure,<sup>78</sup> can delegate the adoption of management or administrative measures to the Directors-General and Heads of Department. This possibility was used in a decision adopted in 2017, whereby the Commission decided on delegating the power to correct obvious errors in its acts to its Secretary-General.<sup>79</sup> The decision replaced the previous authorization of 1977,<sup>80</sup> which became outdated. Delegating the power of correcting obvious errors to the Secretary General of the Commission is in line with Article 20(2) of the Rules of Procedure. The decision limits the power of the Secretary-General to correct obvious errors which do not affect the substance of corrected provisions of legal acts and which are not politically sensitive or important.

According to the decision,<sup>81</sup> obvious errors are those that are easily recognizable in the text. It provides examples like spelling, typing or printing errors, mathematical errors or the omission of one or more words or of part of the text. If errors appear as a result of translation from the original text, the Commission's Directorate-General for Translation (DGT) will be in charge of preparing a corrigendum. According to the Empowerment Decision<sup>82</sup> – three cumulative conditions must be met so that DGT can correct a mistake in the text: the error must appear in a translation; it must be evident in itself or when comparing the translation with the original; and it must not affect the substance of the text in its integrity. The empowerment was given to the Commissioner in charge of multilingualism, who,

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<sup>77</sup> According to art 4 of the Rules of Procedure of the Commission, this institution takes decision via oral, written, empowerment or delegation procedure. The practice shows that for corrigenda the oral procedure is not used and replaced by the written one.

<sup>78</sup> Rules of Procedure of the Commission [2000] OJ L308/26 as amended, art 14.

<sup>79</sup> Commission, 'Commission decision of 12 July 2017 on delegation of the power to correct obvious errors in Commission acts' C(2017) 4898 final.

<sup>80</sup> SEC(1977) 2532/1

<sup>81</sup> Commission decision of 12 July 2017, recital 5. Even though recitals are not legally binding provisions of the text, they bring authentic interpretation.

<sup>82</sup> Commission, Empowerment to correct errors, including minor errors, in translation of acts adopted by the Commission SEC(2008)2397.

in May 2010, sub-delegated the power to correct errors to the Director-General of DGT.<sup>83</sup> DGT, through the services of its corrigenda team, prepares the text of the corrigendum, then consults the Legal Service of the Commission and the originating DGT to obtain their approval for correcting the act, following which DGT, after the approval of its own Director-General, can adopt the instrument.<sup>84</sup>

Independently from the decision-making procedure used by the Commission and irrespective of who is responsible for the adoption of the corrections, the service responsible for initiating the corrections is the one who was the author of the act to be corrected. If errors originate in translation, it will be the Directorate-General for Translation who will start the procedure. In all cases, the Legal Service has to be consulted to confirm the nature of the error (substantive, obvious) and the correct form of the correction.<sup>85</sup>

#### 4. CORRECTIONS BY THE PUBLISHER

As mentioned before, corrigenda can also originate in mistakes made by the publisher of the Official Journal of the European Union or its contractors. When a published legal act deviates in its text from the one adopted and signed by the responsible EU institution(s) and the error is noticed only after publication, a procedure which results in publishing of a corrigendum can be launched. These corrigenda usually correct simple and fairly obvious mistakes.

## XII. CONCLUSIONS

The European Union, representing a sophisticated amalgamation of political and economic objectives, grapples with the multifaceted task of developing legislation that integrates the varied interests of its Member States. Within this comprehensive bureaucratic structure, the translation of broad objectives into detailed legal directives exemplifies the intricate balance between theoretical legal principles and their practical application.

The breadth of the EU's legislative framework, while extensive, displays discernible gaps, particularly concerning corrigenda. The notable absence of explicit definitions in the Union's primary and secondary legal documents underscores an imperative for enhanced clarity and comprehensive guidelines.

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<sup>83</sup> Commission, Subdelegation of 5 May 2010, C(2010) 3031.

<sup>84</sup> Commission, Empowerment to correct errors, including minor errors, in translation of acts adopted by the Commission SEC(2008)2397, point 6.

<sup>85</sup> Commission, Commission decision of 12 July 2017 on delegation of the power to correct obvious errors in Commission acts, C(2017) 4898 final, art 2.

Correcting acts and corrigenda within the EU's legislative context serve roles beyond mere error rectification. Their significance, while ostensibly clear, is layered with subtleties that demand thorough understanding. The EU's commitment to multilingualism introduces additional challenges. Correcting acts and corrigenda may pertain exclusively to specific linguistic versions, emphasizing the paramount importance of precise translation and the inherent challenges of ensuring linguistic consistency.

A significant advantage of correcting acts is that, unlike corrigenda, they apply prospectively, unless there is a justifiable need for retroactivity. Their preamble provides for the opportunity to list errors and elucidate the reasons for correction. Their disadvantage is that as legal acts, they have to comply with a lengthy decision-making procedure, while mistakes should be rectified promptly. This might be one of the main reasons why it is widely used by the Commission, who as an executive body works permanently and can proceed fast in comparison to the European Parliament and the Council. As practice shows the co-legislators use corrigenda to correct all types of errors, including substantive mistakes. That simplifies and accelerates the procedure, although their retroactive application might at some instances be problematic for individuals, economic operators or administrations. Therefore, it would be recommendable that the European Parliament and the Council considers using corrective acts for rectifying substantive errors.

Another pivotal consideration is the delineation of substantive errors. Such errors, with potential implications ranging from textual discrepancies to considerable market disruptions, necessitate a structured and meticulous approach for identification and rectification.

The practice of the Commission in addressing such errors emphasizes the necessity of upholding legislative consistency and integrity. Recent observations, including data from 2022, suggest a discernible shift in dealing with errors with a heightened emphasis on correcting acts. Such trends warrant meticulous scrutiny to understand underlying motivations and potential implications.

The number of detected errors in EU documents is substantial. However, it also signifies that there is a robust mechanism in place to identify these errors.

In summary, as the EU continues its endeavours towards creating robust and unambiguous legislative frameworks, the intricacies and evolution of correction of errors in EU law remain central to these efforts, reflecting the dynamic and evolving nature of the Union's legislative processes.

### **Disclaimer**

The information and views set out in this article are those of the co-author (Marcin Baryń) and should not be linked with the official opinion of the European Commission.

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