



8.12.2017

DRAFT OPINION

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (COM(2017)0085 – C8-0034/2017 – 2017/0035(COD))

Rapporteur: Angélique Delahaye

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SHORT JUSTIFICATION

The Commission is proposing to Parliament and the Council an amendment of Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers in order to address the problem of the absence of a decision on the part of the Member States on issues which are sensitive and often political.

President Jean-Claude Juncker, in his State of the Union address to Parliament in September 2016, said that on certain issues the Member States had to accept their responsibilities. The rapporteur shares this analysis and welcomes the proposals made concerning:

- the method used to calculate a qualified majority. The votes of abstaining Member States will no longer be taken into account for the purpose of calculating a qualified majority in the appeal committee;
- a further referral to the appeal committee, as well as a possible referral to the Council by the Commission;
- the disclosure of votes.

The rapporteur stresses that in most cases the current system works, and works well. The proposed changes apply only to procedures at the appeal committee level when no opinion has been delivered. In practical terms, the proposal should only concern around 2% of all draft implementing acts submitted to committees. Consequently, it is important not to change the comitology framework as such. The rapporteur's aim is therefore, whilst maintaining the current general framework, to improve the system to avoid repeats of the deadlocks encountered since the procedure was introduced in 2011, whether on issues already dealt with or on others which may emerge.

As far as the rapporteur is concerned, one aspect which still needs to be improved in this proposal is transparency. On sensitive issues, such as tax, consumer health, food safety and environmental protection, Member States must not only assume their responsibilities but, above all, make citizens aware of them. It is only through greater transparency and better information about the EU decision-making process that we will maintain the trust of European citizens.

This will be achieved not only by disclosure of votes both in committees and in the appeal committee, with an explanation of the Member States' reasons, but also through broad information campaigns about the procedures, the analysis of risks and the division of roles between official scientific bodies in the EU, the European agencies and institutions and the Member States.

The rapporteur believes that the disclosure of votes and asking Member States to provide reasons for them will also make it possible for Member States which were present but wanted to abstain to explain their position since their vote will no longer count in calculating the qualified majority. As far as the rapporteur is concerned, there is a fundamental difference between not taking a seat in a committee and abstaining. An abstention can be a political choice for which it should be possible to provide an explanation, without, however, paralysing the system, as is currently the case.

Lastly, the rapporteur believes it is important that, in the interests of democracy, Parliament should always be properly informed at the same time as the Council of the adoption of basic acts. Similarly, in the case of a referral to the Council, as provided for in the Commission proposal, Parliament must be informed of its conclusions.

AMENDMENTS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Legal Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The system established by Regulation (EC) No 182/2011 has, overall, proven to work well in practice and struck an appropriate institutional balance as regards the roles of the Commission and the other actors involved. That system should therefore continue to function unchanged except for certain targeted amendments concerning specific aspects of procedure at the level of the appeal committee. These amendments are intended to ensure wider political accountability and ownership of politically sensitive implementing acts without, however, modifying the legal and institutional responsibilities for implementing acts as organised by Regulation (EU) No 182/2011.

Amendment

(2) The system established by Regulation (EC) No 182/2011 has, overall, proven to work well in practice and struck an appropriate institutional balance as regards the roles of the Commission and the other actors involved. That system should therefore continue to function unchanged except for certain targeted amendments concerning specific aspects of procedure at the level of the appeal committee. These amendments are intended to ensure wider political accountability and ownership, ***in particular by the Member States***, of politically sensitive implementing acts without, however, modifying the legal and institutional responsibilities for implementing acts as organised by Regulation (EU) No 182/2011, ***while maintaining decision-making based on sound, objective and non-discriminatory scientific evidence in accordance with the procedures laid down in EU legislation and the most up-to-date scientific standards and methods.***

Or. fr

Justification

It is essential to base any decision-making on sound, objective and non-discriminatory

scientific evidence as provided for in EU legislation. In addition, and in order to address the deadlocks we have experienced recently, Member States must assume their responsibilities.

Amendment 2

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) In a number of specific cases, Regulation (EU) No 182/2011 provides for referral to the appeal committee. In practice, the appeal committee has been seized in cases where no qualified majority, either in favour or against, was attained within the committee in the context of the examination procedure and thus no opinion was delivered. In the majority of cases this happened in relation to genetically modified organisms and genetically modified food and feed and plant protection products.

Amendment

(3) In a number of specific cases, Regulation (EU) No 182/2011 provides for referral to the appeal committee. In practice, the appeal committee has been seized in cases where no qualified majority, either in favour or against, was attained within the committee in the context of the examination procedure and thus no opinion was delivered. In the majority of cases this happened in relation to ***particularly sensitive sectors, such as tax, consumer health, food safety, environmental protection and, more specifically,*** genetically modified organisms and genetically modified food and feed and plant protection products.

Or. fr

Justification

It is important to specify all the particularly sensitive sectors and not focus solely on some of them. We do not know what might be a future source of deadlock.

Amendment 3

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) It is important to point out that only a very limited number of cases have been referred to the appeal committee as provided for in Regulation (EU)

Justification

In the majority of cases the current system works well. Procedures at appeal committee level where no opinion has been delivered concern only around 2% of the total number of draft implementing acts submitted to the committees.

Amendment 4

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) That discretion is, however, significantly reduced in cases relating to the authorisation of products or substances, ***such as in the area of genetically modified food and feed***, as the Commission is obliged to adopt a decision within a reasonable time and cannot abstain from taking a decision.

Amendment

(6) That discretion is, however, significantly reduced in cases relating to the authorisation of products or substances in ***particularly sensitive areas***, as the Commission is obliged to adopt a decision within a reasonable time and cannot abstain from taking a decision.

Justification

It makes more sense to move the detail regarding sensitive sectors to recital 3, and also so as not to focus only on certain sectors as we do not know what might be a future source of deadlock.

Amendment 5

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) While the Commission is empowered to decide in such cases, ***due to the particular sensitivity of the issues at stake***, Member States should also fully assume their responsibility in the decision-

Amendment

(7) While the Commission is empowered to decide in such cases, Member States should also fully assume their responsibility in the decision-making process ***and take a collective decision***.

making process. This, however, is not the case when Member States are not able to reach a qualified majority, due to, amongst others, a significant number of abstentions or non-appearances at the moment of the vote.

This, however, is not the case when Member States are not able to reach a qualified majority, due to, amongst others, a significant number of abstentions or non-appearances at the moment of the vote.

Or. fr

Justification

Member States must always assume their responsibilities, not only when it comes to sensitive issues.

Amendment 6

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) In order to increase the added value of the appeal committee its role should therefore be strengthened by providing for the possibility of holding a further meeting of the appeal committee whenever no opinion is delivered. The *appropriate* level of representation at the further meeting of the appeal committee should be ministerial level, to ensure a political discussion. To allow the organisation of such a further meeting the timeframe for the appeal committee to deliver an opinion should be extended.

Amendment

(8) In order to increase the added value of the appeal committee its role should therefore be strengthened by providing for the possibility of holding a further meeting of the appeal committee whenever no opinion is delivered. The level of representation at the further meeting of the appeal committee should be *at an appropriate political level, such as* ministerial level, to ensure a political discussion. To allow the organisation of such a further meeting the timeframe for the appeal committee to deliver an opinion should be extended.

Or. fr

Justification

The idea of arranging a new appeal committee meeting is interesting. I share the view that a higher political level could be a solution, but, depending on the case, this will not always be possible or may not necessarily be required. A broader wording seems more appropriate to respond to the various cases that may arise.

Amendment 7

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) *The Commission should have the possibility, in specific cases, to ask the Council to indicate its views and orientation on the wider implications of the absence of an opinion, including the institutional, legal, political and international implications. The Commission should take account of any position expressed by the Council within 3 months after the referral. In duly justified cases, the Commission may indicate a shorter deadline in the referral.*

Amendment

(10) *At the request of the Commission, in specific cases, the Council should have the possibility to give its views on the wider implications of the absence of an opinion, including the institutional, legal, political and international implications. The Commission should take account of any position expressed by the Council within 3 months after the referral. In duly justified cases, the Commission may indicate a shorter deadline in the referral. The European Parliament should be informed as soon as possible of the outcome of the referral to the Council.*

Or. fr

Justification

In the interests of democracy, it is important for Parliament to be informed of the conclusions of the referral to the Council.

Amendment 8

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) Transparency *on the votes of Member State representatives at the appeal committee level should be increased and the individual Member State representatives' votes should be made public.*

Amendment

(11) Transparency *throughout the entire legislative process, including with regard to information on how Member State representatives vote, should be increased both at the committee level and in the appeal committee. The votes of each Member State should be made public and be accompanied by a justification, whether it is for a vote for or against or an abstention.*

Justification

More transparency is needed to restore the confidence of European citizens in the EU's decision-making process. This requires disclosure of votes both at committee level and in the appeal committee, with an explanation of the Member States' reasons. Member States must assume their responsibilities.

Amendment 9**Proposal for a regulation****Recital 11 a (new)**

Text proposed by the Commission

Amendment

(11a) In order to increase transparency, better inform European citizens and enhance their confidence in the EU decision-making process, the Commission and the Member States should work on a joint communication on risk assessment, particularly for sensitive subjects, as well as on the EU decision-making process and the division of responsibilities between official scientific bodies in the EU, the agencies and institutions of the EU and the Member States.

Justification

This proposal aims to enhance European citizens' confidence in the EU's decision-making process. To do this, extensive information campaigns are essential.

Amendment 10**Proposal for a regulation****Article 1 – paragraph 1 – point 1**

Regulation (EU) No 182/2011

Article 3 – paragraph 7 – subparagraph 6

Text proposed by the Commission

Amendment

Where no opinion is delivered in the appeal

Where no opinion is delivered in the appeal

committee pursuant to the second subparagraph of Article 6(3), the chair may **decide** that the appeal committee shall hold a further meeting, at **ministerial** level. In such cases the appeal committee shall deliver its opinion within 3 months of the initial date of referral.

committee pursuant to the second subparagraph of Article 6(3), the chair may **propose** that the appeal committee shall hold a further meeting, at **the appropriate political** level. In such cases the appeal committee shall deliver its opinion within 3 months of the initial date of referral.

Or. fr

Justification

The idea of arranging a new appeal committee meeting is interesting. I share the view that a higher political level could be a solution, but, depending on the case, this will not always be possible or may not necessarily be required. A broader wording seems more appropriate to respond to the various cases that may arise.

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 182/2011

Article 6 – paragraph 3 a

Text proposed by the Commission

3a. Where no opinion is delivered in the appeal committee, the **Commission may refer the matter to the Council for an opinion indicating its views and orientation** on the wider implications of the absence of opinion, including the institutional, legal, political and international implications. The Commission shall take account of any position expressed by the Council within 3 months after the referral. In duly justified cases, the Commission may indicate a shorter deadline in the referral.

Amendment

3a. Where no opinion is delivered in the appeal committee, the **Council, at the request of the Commission, may give its opinion** on the wider implications of the absence of opinion, including the institutional, legal, political and international implications. The Commission shall take account of any position expressed by the Council within 3 months after the referral. In duly justified cases, the Commission may indicate a shorter deadline in the referral. **The European Parliament shall be informed as soon as possible of the outcome of the referral to the Council.**

Or. fr

Justification

In the interests of democracy, it is important for Parliament to be informed as soon as

possible of the conclusions of the referral to the Council.

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a

Regulation (EU) No 182/2011

Article 10 – paragraph 1 – point e

Text proposed by the Commission

(e) the voting results ***including, in the case*** of the appeal committee, ***the votes expressed by the representative of each Member State;***

Amendment

(e) the voting results ***expressed by the representative of each Member State both in the committees and in the appeal committee, accompanied by a justification, whether it is for a vote for or against or an abstention.***

(This amendment applies throughout the text and will necessitate corresponding changes throughout the text.)

Or. fr

Justification

More transparency is needed to restore the confidence of European citizens in the EU's decision-making process. This requires disclosure of votes both at committee level and in the appeal committee, with an explanation of the Member States' reasons. Member States must assume their responsibilities.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 3 a (new)

Regulation (EU) No 182/2011

Article 11

Present text

Article 11
Right of scrutiny for the European Parliament and the Council

Amendment

(3a) Article 11 is replaced by the following:

‘Article 11
Right of scrutiny for the European Parliament and the Council

Where a basic act is adopted under the ordinary legislative procedure, either the European Parliament or the Council may at any time indicate to the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act. In such a case, the Commission shall review the draft implementing act, taking account of the positions expressed, and shall inform the European Parliament and the Council whether it intends to maintain, amend or withdraw the draft implementing act.

Where a basic act is adopted under the ordinary legislative procedure, either the European Parliament or the Council, *to whom the matter shall be referred simultaneously and as soon as possible*, may at any time indicate to the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act. In such a case, the Commission shall review the draft implementing act, taking account of the positions expressed, and shall inform the European Parliament and the Council *simultaneously* whether it intends to maintain, amend or withdraw the draft implementing act.’

Or. fr

Justification

In the interests of democracy, it is important for Parliament to be informed of the conclusions of the referral to the Council.