



18.7.2017

## **DRAFT OPINION**

of the Committee on Agriculture and Rural Development

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: Bronis Ropè



## SHORT JUSTIFICATION

This draft opinion responds to the legislative proposal by the European Commission to change the rules on ‘comitology’, the process by which expert committees - represented by Member State experts from Ministries and chaired by the relevant department of the European Commission - establish secondary EU law, notably implementing and delegated acts. We as the Parliament can then, in the case of Delegated Acts, either accept or reject them, but cannot amend them. In this draft opinion your rapporteur aims to do the following:

- Increase democracy and the democratic legitimacy of the decisions made through comitology;
- Increase transparency at every stage of the comitology process, making it more accountable;
- Incentivise the Member States to become more responsible and accountable in the key role they play;
- Ensure that important decisions are not left to a small number of Member States, which would be the case if abstentions were not to be counted, as now proposed in the Commission’s proposal.

## AMENDMENTS

The Committee on Agriculture and Rural Development 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

###### *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 of politically sensitive implementing acts ***and take account of the precautionary principle,***

institutional responsibilities for implementing acts as organised by Regulation (EU) No 182/2011.

without, however modifying the legal and institutional responsibilities for implementing acts as organised by Regulation (EU) No 182/2011.

Or. en

## Amendment 2

### 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-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.***

#### *Amendment*

(7) While the Commission is **currently** empowered to decide in such cases, due to the particular sensitivity of the issues at stake, Member States should assume **greater** responsibility in the decision-making process **and where the act concerns the protection of the health or safety of humans, animals, plants, or the environment, the precautionary principle should apply. As a consequence, in such cases,** when Member States are not able to reach a qualified majority ***in favour of proposals to grant authorisation for a product or substance, the authorisation should be considered not to be granted.***

Or. en

#### *Justification*

*Member States should bear greater responsibility in this politically sensitive area.*

## Amendment 3

### 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***

#### *Amendment*

***deleted***

*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.*

Or. en

*Justification*

*A further meeting at ministerial level does not seem useful, taking into account that in most cases the result of the vote in the appeal committee did not differ from the voting result in the standing committee.*

**Amendment 4**

**Proposal for a regulation**

**Recital 9**

*Text proposed by the Commission*

*Amendment*

**(9) *The voting rules for the appeal committee should be changed in order to reduce the risk of no opinion being delivered and to provide an incentive for Member State representatives to take a clear position. To this end only Member States which are present or represented, and which do not abstain, should be considered as participating Member States for the calculation of the qualified majority. In order to ensure that the voting outcome is representative a vote should only be considered valid if a simple majority of the Member States are participating members of the appeal committee. If the quorum is not reached before expiry of the time-limit for the committee to take a decision, it will be considered that the committee delivered no opinion, as is the case today.***

***deleted***

Or. en

### *Justification*

*The change in the voting rules seems inspired by bringing about certain statistical effects rather than increasing Member States' responsibility. Member State representatives may have valid reasons to abstain when voting.*

#### **Amendment 5**

##### **Proposal for a regulation**

##### **Recital 10**

*Text proposed by the Commission*

*Amendment*

*(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.*

*deleted*

Or. en

### *Justification*

*The added value of this measure is not clear.*

#### **Amendment 6**

##### **Proposal for a regulation**

##### **Recital 11**

*Text proposed by the Commission*

*Amendment*

*(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.*

*(11) Transparency **throughout the legislative process, including with regard to information on how** Member State representatives **vote**, should be increased. **Substantive reasons for** individual Member State representatives' votes should be made public. **Detailed information should be given, including on the composition and attendance of committees, and on the Member State***

*authorities represented.*

Or. en

*Justification*

*Transparency should be increased throughout the whole legislative process. Moreover, substantive reasons should be given for votes in the interest of a reasoned decision-making process, to increase Member States' political responsibility and bearing in mind possible legal claims.*

**Amendment 7**

**Proposal for a regulation**

**Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11 a) Where it appears difficult to obtain positive opinions from the Member States for draft implementing acts based on the same basic act, the European Parliament and the Council should have the possibility of indicating to the Commission that it believes that the conferral of implementing powers on the Commission in the basic act needs to be reviewed.***

Or. en

*Justification*

*Systematic problems with similar draft implementing acts may warrant a review of the implementing powers in the relevant basic act.*

**Amendment 8**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 1**

Regulation (EU) No 182/2011

Article 3 – paragraph 7 – subparagraph 5a

*Text proposed by the Commission*

*Amendment*

***(1) in Article 3(7), the following sixth subparagraph is added:*** ***deleted***

***“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.”;***

Or. en

*Justification*

*A further meeting at ministerial level does not seem useful, taking into account that in most cases the result of the vote in the appeal committee did not differ from the voting result in the standing committee.*

**Amendment 9**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 – point a**

Regulation (EU) No 182/2011

Article 6 – paragraph 1 – subparagraph 1a

*Text proposed by the Commission*

*Amendment*

***(a) in paragraph 1, the following second subparagraph is added:*** ***deleted***

***“However, only members of the appeal committee who are present or represented at the time of the vote, and do not abstain from voting, shall be considered as participating members of the appeal committee. The majority referred to in Article 5(1) shall be the qualified majority referred to in Article 238(3) (a) TFEU. A vote shall only be considered to be valid if a simple majority of the Member States are participating members.”;***

Or. en

*Justification*

*The change in the voting rules seems inspired by bringing about certain statistical effects rather than increasing Member States' responsibility. Member State representatives may have valid reasons to abstain when voting.*



## Amendment 10

### Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EU) No 182/2011

Article 6 – paragraph 3a

*Text proposed by the Commission*

*Amendment*

**(b) the following paragraph 3a is inserted:** **deleted**

**“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.”;**

Or. en

*Justification*

*The added value of this measure is not clear.*

## Amendment 11

### Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b a (new)

Regulation (EU) No 182/2011

Article 6 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**(b a) the following paragraph 4a is inserted:**

**“By way of derogation from paragraph 3, where the basic act concerns the protection of the health or safety of humans, animals, plants or the environment and the draft implementing act concerns a proposal to grant authorisation for a product or substance,**

*in the absence of a positive opinion voted by the majority provided for in Article 5(1), the Commission shall not adopt the draft implementing act and the authorisation shall be considered not to be granted.”*

Or. en

*Justification*

*Greater weight should be given to the precautionary principle and Member States should bear greater responsibility in this politically sensitive area.*

**Amendment 12**

**Proposal for a regulation**

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

Regulation (EU) No 182/2011

Article 10 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

"(c) the summary records, together with the lists of the authorities and organisations to which the persons designated by the Member States to represent them belong;"

*(-a) in paragraph 1, point (c) is replaced by the following:*

"(c) the summary records, together with ***the lists of the persons present and*** the lists of the respective authorities and organisations to which the persons designated by the Member States to represent them belong;"

Or. en

*(<http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32011R0182>)*

*Justification*

*Transparency should be increased throughout the whole legislative process. More detailed information should be given on the composition of committees.*

**Amendment 13**

**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, including the votes expressed by the representative of each Member State, ***as well as substantive reasons from each representative for their vote***;”;

Or. en

*Justification*

*Transparency should be increased also at the level of the standing committee. Moreover, substantive reasons should be given for votes in the interest of a reasoned decision-making process, to increase Member States' political responsibility and bearing in mind possible legal claims.*

**Amendment 14**

**Proposal for a regulation**

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

Regulation (EU) No 182/2011

Article 11 – paragraph 1

*Text proposed by the Commission*

"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."

*Amendment*

***(3 a) In Article 11, paragraph 1 is replaced by the following:***

"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 ***or that it believes that the conferral of implementing powers on the Commission in the basic act needs to be reviewed***. In such ***cases***, the Commission shall review the draft implementing ***act or basic*** 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 ***or whether it intends to present a proposal to amend the basic act***."

Or. en

*(<http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32011R0182>)*

*Justification*

*Where it appears difficult to obtain a positive opinion of the Member States in similar cases, it may be opportune to review the implementing powers conferred on the Commission.*