**DRAFT REPORT**


Committee on Legal Affairs

Rapporteur: József Szájer
Symbols for procedures

* Consultation procedure
*** Consent procedure
***I Ordinary legislative procedure (first reading)
***II Ordinary legislative procedure (second reading)
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in **bold italics** in the left-hand column. Replacements are indicated in **bold italics** in both columns. New text is indicated in **bold italics** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in **bold italics**. Deletions are indicated using either the `▌` symbol or strikeout. Replacements are indicated by highlighting the new text in **bold italics** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.
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(Ordinary legislative procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2017)0085),
— having regard to Article 294(2) and Article 291(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0034/2017),
— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
— having regard to Rule 59 of its Rules of Procedure,
— having regard to the opinions of the Committee on International Trade, the Committee on Economic and Monetary Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy, the Committee on Transport and Tourism, the Committee on Agriculture and Rural Development and the Committee on Constitutional Affairs,
— having regard to the report of the Committee on Legal Affairs (A9-0000/2020),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 2

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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. The main elements of the system might therefore continue to function unchanged. However, certain targeted amendments concerning specific aspects of procedure at the level of the appeal committee seem justified. 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. The further objective underlying the amendments is to improve citizens' awareness of procedures related to implementing acts. In order to increase trust in the Union’s institutions, it is essential not only to inform citizens about taking decisions but also to explain the reasons behind those decisions.

Amendment 2

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 appropriate level of representation at the further meeting of the appeal committee should be of a sufficiently high 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.
should be extended.

Amendment 3
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) 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 and should inform the European Parliament thereof. 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 position expressed by the Council should also be sent to the European Parliament without undue delay.

Amendment 4
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 on the votes of Member State representatives throughout the entire advisory and examination procedures should be increased and the individual Member State representatives' votes should be made public.
Amendment 5
Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In order to enhance visibility and citizens’ awareness, the manner of voting of each Member State representative should be accompanied by a justification.

Or. en

Amendment 6
Proposal for a regulation
Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) The accessibility of the register should be further increased and changes to its content should be made in order to ensure greater transparency. Improving the search functions of the register would be an essential element in this process.

Or. en

Amendment 7
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 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.

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 a sufficiently high political level, such as ministerial level. In such cases the appeal committee shall deliver its opinion within 3 months of the initial date of referral.
Amendment 8
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

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 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 and shall inform the European Parliament thereof without undue delay. 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 position expressed by the Council shall also be sent to the European Parliament without undue delay.

Amendment 9
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 each Member State representative accompanied by a justification, and the abstentions;

Or. en
Amendment 10

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point a (new)
Regulation (EU) No 182/2011
Article 10 – paragraph 3

Present text

3. The European Parliament and the Council shall have access to the information referred to in paragraph 1 in accordance with the applicable rules.

Amendment

(aa) paragraph 3 is replaced by the following:

"3. The European Parliament and the Council shall have access to the information referred to in paragraph 1 without undue delay."

Or. en

Amendment 11

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point b (new)
Regulation (EU) No 182/2011
Article 10 – paragraph 5 (new)

Text proposed by the Commission

5a. In order to ensure greater transparency, the Commission shall ensure that the search functions of the register enable the search by policy area.

Amendment

(ba) the following paragraph is added:

"5a. In order to ensure greater transparency, the Commission shall ensure that the search functions of the register enable the search by policy area."

Or. en
EXPLANATORY STATEMENT

On 14 February 2017, the European Commission submitted a proposal (COM(2018)85final) to reform the EU comitology system (Regulation (EU) No 182/2011). It aims at enhancing the transparency and accountability of implementation of EU law in certain highly contentious policy areas by the following measures:

- changing the voting rules at the last stage of the comitology procedure (the so-called Appeal Committee), so that only votes in favour or against an act are taken into account. The aim is to reduce the use of abstentions and the number of situations where the Committee is unable to take a position and the Commission is obliged to act without a clear mandate from the Member States.

- involving national Ministers by allowing the Commission to make a second referral to the Appeal Committee at Ministerial level if national experts do not take a position.

- increasing voting transparency at the Appeal Committee level.

- ensuring political input by enabling the Commission to refer the matter to the Council of Ministers for an Opinion if the Appeal Committee is unable to take a position.

Overall, the rapporteur welcomes the Commission’s proposal but also would like to underline that in most cases the current system works properly so that the proposal of the Commission concerns only a minor, however sensitive segment of the cases submitted to the committees.

Nevertheless, examples from recent practice show that the current mechanism could be improved in order to increase certainty and transparency in the procedure. Environmental protection but also other fundamental issues such as health and food safety are crucial areas where Member States should show political accountability and must act transparently so that citizens are aware of not only their decisions but also of the reasons lying behind.

According to the Treaty of the European Union decisions shall be taken as openly and as closely as possible to the citizen. (Article 10(3) TEU). EU institutions shall aim to promote the European values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions (Article 13 TEU). The European Union builds on the fundamental principle of the rule of law – of which transparency is the core element – and institutions must be at the forefront of adhering to it.

We need to take steps to proactively deliver on increased transparency and accountability, in order to maintain and enhance the trust of European citizens in the processes of the EU institutions and in particular in the comitology procedure.

The rapporteur’s aim is to improve the system in this regard. Therefore the rapporteur proposes the following elements, also taking into consideration the positions adopted by the opinion-giving committees of the European Parliament.

- There is a general need to improve citizens' awareness of procedures related to
implementing acts. In order to increase trust in the EU institutions it is instrumental not only to inform citizens about taking decisions but also to explain the reasons behind them.

- To this end, it is necessary that Member States accompany their vote - whether it is for or against - or abstention by a justification, irrespective of the outcome of the vote.

- Further meetings of the appeal committee called by its chair in case of no opinion should be held at a sufficiently high political level such as the ministerial level. The Rules of Procedure of the Appeal Committee already foresee the possibility of convening a meeting of the appeal committee at ministerial level (Article 1(5), second subparagraph). Moreover this amendment is also in accordance with Article 5 of the Rules of Procedure of the Appeal Committee.

- It is necessary to increase the accessibility of the comitology register and to apply changes to its content, which will allow citizens to know not only the formal elements of the procedure but also the reasons for the decisions of the Member States. Improving the search functions of the registry is essential in this regard.

- It is of utmost importance to ensure that the European Parliament is informed about each case when the Commission refers a matter to the Council of Ministers for an opinion in the absence of a clear position of the Appeal Committee. Political input provided by the Council of Ministers should be also shared with the European Parliament.

One important component of the political guidelines for the period 2019-2024 adopted by the new European Commission is to ensure greater transparency in the functioning of the institutions in order to increase citizens' faith in the Union. The rapporteur wishes to express his confidence that, in this spirit, the Commission will be able to promote some progress in the Council regarding the draft proposal.