AMENDMENTS 001-025
by the Committee on Legal Affairs

Report
József Szájer **A9-0187/2020**
Rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers

Proposal for a regulation (COM(2017)0085 – C8-0034/2017 – 2017/0035(COD))

Amendment 1

Proposal for a regulation
Recital 2

Text proposed by the Commission	*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 without, however, modifying the legal and institutional responsibilities for implementing acts as organised by Regulation (EU) No 182/2011.	(2) Regulation (EC) No 182/2011has, overall, proven to work ***effectively*** in practice and struck an appropriate institutional balance as regards the roles of the Commission and the other actors involved. ***The main elements of the*** system ***can*** therefore continue to function unchanged***. However, the level of added-value provided by Regulation (EC) No 182/2011 as regards an appropriate decision-making process has not been entirely satisfactory.*** Certain targeted amendments concerning specific aspects of procedure at the level of the appeal committee ***seem, therefore, to be necessary***. 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. ***An additional objective of this amending act is to improve Union citizens' awareness of procedures related to implementing acts. In order to increase trust in the Union's institutions and bodies, it is essential not only to inform Union citizens about decision-making but also to explain the reasons behind the decisions of those institutions and bodies.***

Amendment 2

Proposal for a regulation
Recital 3

Text proposed by the Commission	*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 genetically modified organisms and genetically modified food and feed and plant protection products.***	(3) In a number of specific cases, Regulation (EU) No 182/2011 provides for referral to the appeal committee. In practice, ***particularly in relation to genetically modified organisms, genetically modified food and feed and plant protection products***, 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.

Amendment 3

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission	*Amendment*
	(3a) As a consequence, only a very limited number of cases have been referred to the appeal committee as provided for in Regulation (EU) No 182/2011 and are therefore concerned by this amending act.

Amendment 4

Proposal for a regulation
Recital 4

Text proposed by the Commission	*Amendment*
(4) Experience has shown that, in the vast majority of cases, the appeal committee repeats the outcome of the examination committee and results in no opinion being delivered. The appeal committee has therefore not helped in providing clarity on Member State positions.	(4) Experience has shown that, in the vast majority of cases, the appeal committee repeats the outcome of the examination committee and results in no opinion being delivered. The appeal committee has therefore not helped in providing clarity on Member State positions***, or to overcome the absence of opinions in the examination procedure***. Regulation (EU) No 182/2011 provides that the Commission may in such cases adopt the draft implementing act, ***leaving it to the Commission to determine on behalf of the Member States the need and how to ensure the effective implementation of the legislation.***

Amendment 5

Proposal for a regulation
Recital 5

Text proposed by the Commission	*Amendment*
(5) Regulation (EU) No 182/2011 provides that the Commission may in such cases adopt the draft implementing act, thus giving the Commission discretion.	***deleted***

Amendment 6

Proposal for a regulation
Recital 6

Text proposed by the Commission	*Amendment*
(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	(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.	food and feed, as the Commission is obliged to adopt a decision within a reasonable time and cannot abstain from taking a decision. ***In this regard, the European Ombudsman pointed out in his decision on case 1582/2014 that the Commission must respect existing legal provisions regarding the deadlines set for the authorisation of genetically modified organisms.***

Amendment 7

Proposal for a regulation
Recital 7

Text proposed by the Commission	*Amendment*
(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.***	(7) While the Commission ***has the competence*** to decide in such cases, due to the particular sensitivity of the issues at stake, Member States should also assume ***greater*** responsibility in the decision-making process. ***Where the basic act concerns the protection of the health or safety of humans, animals or plants, and*** Member States are not able to reach a qualified majority ***in favour of the draft implementing act providing for the grant of authorisation for a product or substance, that authorisation should be deemed to have been refused***.

Amendment 8

Proposal for a regulation
Recital 8

Text proposed by the Commission	*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	(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.	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***. However, such extension should be for a short period only***.

Amendment 9

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.	(10) The Commission should have the possibility, in specific cases, to ask the ***European Parliament and the*** Council to indicate ***their positions*** and orientation on the wider implications of the absence of an opinion, including the institutional, legal, ***economic,*** political and international implications. The Commission should take account of any position expressed by the ***European Parliament and by the*** Council within 3 months after the referral. In duly justified cases, ***for reasons of urgency,*** the Commission may indicate a shorter deadline in the referral. ***The positions expressed by the European Parliament and by the Council should also be sent to the European Economic and Social Committee, and to the European Parliament and to the Council as appropriate, without undue delay.***

Amendment 10

Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission	*Amendment*
	(10a) Where it appears that it would be difficult to obtain positive opinions from

	the Member States in relation to several similar draft implementing acts, consideration should be given to reviewing the implementing powers conferred on the Commission in the relevant basic acts.

Amendment 11

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 on the votes of Member State representatives ***throughout all stages of the advisory and examination procedures*** should be increased and the individual Member State representatives' votes should be made public. ***Where the act concerns particularly sensitive areas, such as the protection of consumers, the health or safety of humans, animals or plants, or the protection of the environment, case-specific detailed reasons for votes and abstentions should be given by each Member State representative. The Commission should also provide information on the composition of committees, including the persons present and the authorities and organisations to which those persons belong, as well as the agendas of the meetings and the documents and drafts of texts being discussed.***

Amendment 12

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission	*Amendment*
	(11a) In order to enhance Union citizens' awareness and understanding of the procedure and enhance the visibility thereof, reasons should be given by each

	Member State representative for his or her vote or abstention or for any absence of that representative.

Amendment 13

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 that there is greater transparency concerning the decision-making process, in particular by adding more information as regards that process. Improving the search functions of the register to allow searches by policy area would be an essential element in that regard.

Amendment 14

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 ***or a simple majority of the Member States*** may decide that the appeal committee shall hold a further meeting, at ***a sufficiently high political level, such as at*** ministerial level. In such cases the appeal committee shall deliver its opinion within 3 months of the initial date of referral.";

Amendment 15

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*
"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.";	"3a. Where no opinion is delivered in the appeal committee, the Commission may refer the matter ***to the European Parliament and*** to the Council for ***opinions*** indicating ***their positions*** and orientation on the wider implications of the absence of opinion, including the institutional, legal, ***economic,*** political and international implications ***of the outcome of the vote in the appeal committee***. The Commission shall take account of any position expressed ***by the European Parliament and*** by the Council within 3 months after the referral. In duly justified cases, ***for reasons of urgency,*** the Commission may indicate a shorter deadline in the referral. ***The positions expressed by the European Parliament and by the Council shall also be sent to the European Economic and Social Committee, and to the European Parliament and to the Council as appropriate, without undue delay.***";

Amendment 16

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*
	(ba) the following paragraph is inserted:
	"4a. By way of derogation from paragraph 3, where the basic act concerns the protection of the health or safety of humans, animals or plants and the draft implementing act provides for the grant of authorisation for a product or substance, that authorisation shall only be granted if the vote in accordance with paragraph 1 results in a positive opinion.

The first subparagraph shall be without prejudice to the right of the Commission to propose a modified draft implementing act concerning the same subject matter.";

Justification

Considering the legal pressure that not authorising sensitive products might cause on the Commission, in case of no opinion the current rules of appeal committees are leaving the Commission with no real other choice than adopting the implementing acts. For important acts that can impact health or safety of humans or animals, the authorisation should be deemed adopted only if there is a strong majority by Member States to support it.

Amendment 17

Proposal for a regulation
Article 1 – paragraph 1 – point 2 – point b b (new)
Regulation (EU) No 182/2011
Article 6 – paragraph 4 b (new)

Text proposed by the Commission	*Amendment*
	(bb) the following paragraph is inserted:
	"4b. The Member State representatives shall provide reasons for their vote or abstention under paragraph 1 or for any absence from the vote.
	Where the act concerns particularly sensitive areas, such as the protection of consumers, the health or safety of humans, animals or plants, or the environment, the Member State representatives shall provide case-specific detailed reasons for their vote or abstention.";

Amendment 18

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

Present text	*Amendment*
	(-a) in paragraph 1, point (b) is replaced by the following:
(b) the agendas of committee meetings;	***"***(b) the agendas of committee meetings***, including drafts of the texts to be decided upon and documents to be discussed***;***";***

Amendment 19

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

Present text	*Amendment*
	(-aa) in paragraph 1, point (c) is replaced by the following:
(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;	***"***(c) the summary records, together with the lists of the ***persons present at the meeting and the*** authorities and organisations to which ***those*** persons designated by the Member States to represent them belong;***";***

Amendment 20

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	*Amendment*
"(e) the voting results ***including, in the case of the appeal committee, the votes expressed by the representative of*** each Member State;";	"(e) the voting results***, including the votes expressed by*** each Member State ***representative and any abstentions, accompanied by the reasons for the vote or abstention as well as reasons for absence from the vote, and, where the act concerns particularly sensitive areas, such as the protection of consumers, the health or safety of humans, animals or plants, or the environment, the accompanying case-***

	specific detailed reasons for the vote or abstention;";

Amendment 21

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

Present text	*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 in accordance with the applicable rules.	***"***3. The European Parliament and the Council shall have access to the information referred to in paragraph 1 in accordance with applicable rules ***and without undue delay****.**";***

Amendment 22

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

Text proposed by the Commission	*Amendment*
"5. ***The references of*** all documents ***referred to in points (a) to (d), (f) and (g) of paragraph 1 as well as the*** information referred to in ***points (e) and (h) of that*** paragraph shall be made public in the register."	"5. All documents ***and*** information referred to in paragraph ***1*** shall be made public in the register."

Amendment 23

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

Text proposed by the Commission	*Amendment*
	(ba) the following paragraph is added:
	"5a. The search functions of the register shall enable searches to be made by policy area.";

Amendment 24

Proposal for a regulation
Article 1 – paragraph 1 – point 3 a (new)
Regulation (EU) No 182/2011
Article 11

Present text	*Amendment*
	(3a) Article 11 is replaced by the following:
Article 11	***"***Article 11
Right of scrutiny for the European Parliament and the Council	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 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 is in conflict with the objectives of 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.
	In addition, where either the European Parliament or the Council considers it to be appropriate to review the conferral of implementing powers on the Commission in the basic act, it may, at any time, call on the Commission to submit a proposal to amend that basic act."

Amendment 25

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission	*Amendment*
This Regulation shall ***not*** apply to ***pending*** procedures ***on which the appeal committee has already delivered an opinion on*** the date of entry into force ***of this Regulation***.	This Regulation shall apply to procedures ***begun after*** the date of ***its*** entry into force.