Mechanisms for control by Member States of the Commission’s exercise of implementing powers: implementing acts at appeal committee level

2017/0035(COD) - 14/02/2017 - Legislative proposal

PURPOSE: to improve the functioning of the comitology procedures.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Regulation (EU) No 182/2011 on comitology sets out the mechanism for the control of the Commission's exercise of implementing powers by Member States. Under the most frequently used procedure, the so-called “examination procedure”, the Commission representatives submit draft implementing acts to a committee composed of representatives from the Member States, which gives its opinion, generally by vote.

The **appeal committee** was introduced in Regulation (EU) No 182/2011 in order to elevate the debate, in particular in case the examination committee did not deliver an opinion, to a more political level.

The Commission has found itself in the past years in a situation where it is legally obliged to take an authorisation decision in the **absence of a qualified majority of the Member States** taking position (either in favour or against) in the committee. This 'no opinion' situation is in the Commission's view particularly problematic when it concerns politically sensitive matters of direct impact on citizens and businesses, for instance in the field of health and safety of humans, animals or plants (e.g. GMOs or glyphosate).

The Commission considered that Member States should, in these specific situations, also assume their responsibilities in the decision-making process to a greater extent. It is for this reason that it has proposed amendments to **improve the functioning of the comitology procedures at the level of the appeal committee** in order to ensure wider political accountability and ownership of politically sensitive implementing acts.

CONTENT: this proposal provides for targeted and limited amendments to Regulation (EU) No 182/2011 and thus relates to implementing acts only.

The Commission proposes to:

- **amend the voting rules for the appeal committee** in order to reduce the risk of a no opinion scenario and to clarify the positions of the Member States. To this end, the proposal stipulates that 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;

- **provide the possibility of a further referral to the appeal committee at ministerial level** where no opinion is delivered. The changes proposed aim at reducing the risk of no opinion outcomes at the appeal committee level and at facilitating the decision-making and to ensure the political ownership of Member States of certain sensitive decisions;
- **increase the transparency** of the comitology procedure by proposing that the votes of the Member States' representatives taken in the appeal committee be made public (they are currently confidential);
- enable the Commission to formally refer specific cases after a no opinion outcome in the appeal committee for a **non-binding opinion** to the Council, with a view to obtaining its political orientation on the implications of the no opinion outcome.