Basic information

2017/0035(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure lapsed or withdrawn
Mechanisms for control by Member States of the Commission's exercise of implementing powers: implementing acts at appeal committee level Amending Regulation (EU) No 182/2011 2010/0051(COD) **Subject** 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.50.01 Implementation of EU law	

Key players

Council of the European Union	
European Commission	**Commission DG** / **Commissioner**: Secretariat-General / TIMMERMANS Frans

Key events

Date	Event	Reference	Summary
14/02/2017	Legislative proposal published	COM(2017)0085	Summary
01/03/2017	Committee referral announced in Parliament, 1st reading		
21/10/2019	Resumption of business from the previous parliamentary term		
01/10/2020	Vote in committee, 1st reading		
12/10/2020	Committee report tabled for plenary, 1st reading	A9-0187/2020	Summary
17/12/2020	Decision by Parliament, 1st reading	T9-0364/2020	Summary
17/12/2020	Results of vote in Parliament		
17/12/2020	Matter referred back to the committee responsible for interinstitutional negotiations		
13/11/2024	Resumption of business from the previous parliamentary term		
06/10/2025	Proposal withdrawn by Commission		

Technical information

Procedure reference	2017/0035(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation

Amendments and repeals	Amending Regulation (EU) No 182/2011 2010/0051(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 291-p3
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	JURI/10/00086

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	ENVI	PE615.396	27/02/2018	
Committee draft report		PE646.995	31/01/2020	
Committee opinion	INTA	PE648.503	19/03/2020	
Committee opinion	ITRE	PE650.544	27/04/2020	
Committee opinion	AFCO	PE650.589	29/04/2020	
Committee opinion	ENVI	PE652.333	15/05/2020	
Committee opinion	AGRI	PE647.138	17/06/2020	
Committee report tabled for plenary, 1st reading/single reading		A9-0187/2020	12/10/2020	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T9-0364/2020	17/12/2020	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2017)0085	14/02/2017	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PL_SENATE	COM(2017)0085	06/06/2017	
Contribution	CZ_CHAMBER	COM(2017)0085	19/06/2017	
Contribution	FR_SENATE	COM(2017)0085	24/10/2017	

Additional information

Source	Document	Date

European Parliament	Briefing	04/03/2021
European Commission	EUR-Lex	

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.

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

2017/0035(COD) - 12/10/2020 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by József SZÁJER (EPP, HU) 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.

As a reminder, Regulation (EU) No 182/2011 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. These votes follow the qualified majority rule as set out in the Treaties.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Improved transparency

In order to enhance Union citizens' awareness and understanding of the procedure and enhance the visibility thereof, Members proposed adding a new Article stipulating that 'the Member State representatives shall provide reasons for their vote or abstention 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. The report called for the European Parliament and the Council to have access to this information with applicable rules and without undue delay.

Comitology register

Members stressed the need 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. They suggested enhancing the search functions of the register for searches to be made by policy area.

Right of scrutiny

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, Members proposed that it may, at any time, call on the Commission to submit a proposal to amend that basic act.

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

2017/0035(COD) - 17/12/2020 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 429 votes to 85, with 182 abstentions, amendments to the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 laying down general rules and principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

The matter was referred to the relevant committee for inter-institutional negotiations.

The main amendments adopted in plenary concern the following points:

Referral to the Appeal Committee

In a number of specific cases, Regulation (EU) No 182/2011 provides for referral to the appeal committee. However, Members pointed out that in practice, in particular in the field of genetically modified organisms, genetically modified food and feed and plant protection products, cases have been referred to the appeal committee in cases where no qualified majority could be reached in the Committee under the examination procedure and where, as a result, no opinion was delivered.

Parliament considered that where no opinion is delivered by the appeal committee, the Chair or a simple majority of the Member States may decide to organise a new meeting of the appeal committee, at a sufficiently high political level, for example at ministerial level, so as to ensure that a political debate is held.

In certain cases, the Commission could invite the European Parliament and the Council to inform it of their position and their assessment of the wider implications of the absence of an opinion, including institutional, legal, economic, political and international implications. The Commission should take into account any position expressed by the European Parliament and the Council within three months of the referral.

Implementing acts in sensitive areas

Members considered that 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 results in a positive opinion.

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 in order to raise awareness and understanding of the procedure among EU citizens.

European Parliament and the Council's right of scrutiny

Where the European Parliament or the Council considers that the conferral of implementing powers on the Commission for a basic instrument should be reviewed, Members proposed that either Parliament or the Council may at any time invite the Commission to submit a proposal to amend that basic instrument.

Transparency of information on committee work

Parliament suggested that 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.