

## Basic information

**2017/0035(COD)**

COD - Ordinary legislative procedure (ex-codecision procedure)  
Regulation

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

Awaiting Parliament's position in 1st reading


## Key players


European  
Parliament

Committee responsible	Rapporteur	Appointed
<span style="border: 1px solid red; padding: 2px;">JURI</span> Legal Affairs	ABADÍA JOVER Maravillas (EPP)	18/11/2024
	Shadow rapporteur REPASI René (S&D) PIERA Pascale (Pfe) SAEIDI Arash (The Left)	
Former committee responsible	Former rapporteur	Appointed
<span style="border: 1px solid red; padding: 2px;">JURI</span> Legal Affairs	POSPÍŠIL Jiří (EPP) SZÁJER József (EPP)	18/03/2021 24/07/2019
<span style="border: 1px solid red; padding: 2px;">JURI</span> Legal Affairs		
Former committee for opinion	Former rapporteur for opinion	Appointed
<span style="border: 1px solid red; padding: 2px;">AFET</span> Foreign Affairs		
<span style="border: 1px solid red; padding: 2px;">AFET</span> Foreign Affairs	The committee decided not to give an opinion.	
<span style="border: 1px solid red; padding: 2px;">DEVE</span> Development	The committee decided not to give an opinion.	
<span style="border: 1px solid red; padding: 2px;">DEVE</span> Development		


<a href="#">INTA</a> International Trade		
<a href="#">INTA</a> International Trade		
<a href="#">ECON</a> Economic and Monetary Affairs		
<a href="#">ECON</a> Economic and Monetary Affairs	The committee decided not to give an opinion.	
<a href="#">EMPL</a> Employment and Social Affairs	The committee decided not to give an opinion.	
<a href="#">EMPL</a> Employment and Social Affairs		
<a href="#">ENVI</a> Environment, Climate and Food Safety		
<a href="#">ENVI</a> Environment, Climate and Food Safety	<a href="#">POLÁK Stanislav (EPP)</a>	18/02/2020
<a href="#">ITRE</a> Industry, Research and Energy		
<a href="#">ITRE</a> Industry, Research and Energy		
<a href="#">IMCO</a> Internal Market and Consumer Protection	The committee decided not to give an opinion.	
<a href="#">IMCO</a> Internal Market and Consumer Protection		
<a href="#">TRAN</a> Transport and Tourism		
<a href="#">TRAN</a> Transport and Tourism	The committee decided not to give an opinion.	
<a href="#">REGI</a> Regional Development	The committee decided not to give an opinion.	
<a href="#">REGI</a> Regional Development		
<a href="#">AGRI</a> Agriculture and Rural Development		
<a href="#">AGRI</a> Agriculture and Rural Development	<a href="#">ROP Bronis (Greens/EFA)</a>	18/09/2019

	<b>PECH</b> Fisheries		The committee decided not to give an opinion.	
	<b>PECH</b> Fisheries			
	<b>CULT</b> Culture and Education			
	<b>CULT</b> Culture and Education		The committee decided not to give an opinion.	
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs			
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		The committee decided not to give an opinion.	
	<b>AFCO</b> Constitutional Affairs	<a href="#">DURAND Pascal (Verts/ALE)</a>		20/03/2017
	<b>AFCO</b> Constitutional Affairs			
	<b>FEMM</b> Women's Rights and Gender Equality		The committee decided not to give an opinion.	
	<b>FEMM</b> Women's Rights and Gender Equality			
Council of the European Union				
European Commission	<b>Commission DG</b>		<b>Commissioner</b>	
	Secretariat-General		TIMMERMANS Frans	

Key events			
Date	Event	Reference	Summary
14/02/2017	Legislative proposal published	<a href="#">COM(2017)0085</a> 	<a href="#">Summary</a>
01/03/2017	Committee referral announced in Parliament, 1st reading		
21/10/2019	Committee referral announced in Parliament, 1st reading		
01/10/2020	Vote in committee, 1st reading		
12/10/2020	Committee report tabled for plenary, 1st reading	<a href="#">A9-0187/2020</a>	<a href="#">Summary</a>
17/12/2020	Decision by Parliament, 1st reading	<a href="#">T9-0364/2020</a>	<a href="#">Summary</a>

17/12/2020	Results of vote in Parliament		
17/12/2020	Matter referred back to the committee responsible for interinstitutional negotiations		
13/11/2024	Committee referral announced in Parliament, 1st reading		

Technical information	
<b>Procedure reference</b>	2017/0035(COD)
<b>Procedure type</b>	COD - Ordinary legislative procedure (ex-codecision procedure)
<b>Procedure subtype</b>	Legislation
<b>Legislative instrument</b>	Regulation
	Amending Regulation (EU) No 182/2011 <a href="#">2010/0051(COD)</a>
<b>Legal basis</b>	Treaty on the Functioning of the EU TFEU 291-p3
<b>Other legal basis</b>	Rules of Procedure EP 165
<b>Stage reached in procedure</b>	Awaiting Parliament's position in 1st reading
<b>Committee dossier</b>	JURI/10/00086

Documentation gateway				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A9-0187/2020</a>	12/10/2020	<a href="#">Summary</a>
Text adopted by Parliament, partial vote at 1st reading /single reading		<a href="#">T9-0364/2020</a>	17/12/2020	<a href="#">Summary</a>
<b>European Commission</b>				
Document type	Reference	Date	Summary	
Legislative proposal	<a href="#">COM(2017)0085</a> 	14/02/2017	<a href="#">Summary</a>	
<b>National parliaments</b>				
Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	<a href="#">PL_SENATE</a>	<a href="#">COM(2017)0085</a>	06/06/2017	
Contribution	<a href="#">CZ_CHAMBER</a>	<a href="#">COM(2017)0085</a>	19/06/2017	
Contribution	<a href="#">FR_SENATE</a>	<a href="#">COM(2017)0085</a>	24/10/2017	

Additional information		
Source	Document	Date

## 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.