

Comitology, follow-up to Amsterdam: procedures for the exercise of implementing powers conferred on the Commission

1998/0219(CNS) - 20/12/2001 - Follow-up document

This document sets out the first report of the working of the committees during 2001. The Council, in its Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1999/468/EC) - the so called new comitology decision - provided that the Commission must publish, from 2000 onwards, an annual report on the working of committees. This report is the first to do so. This report focuses on the "comitology" committees indicated in the list of committees published in the Official Journal; it also takes into account the changes resulting from the implementation of Council Decision 1999/468/EC. Thirdly, it evaluates the working of the committees' procedures in 2000. To recall, the purpose of the comitology committees is to assist the Commission in exercising the implementing powers conferred on it by the legislator, i.e. the Council and the European Parliament. As opposed to other types of committees or expert groups, the comitology committees share three essential features: 1) they were created by the legislator (the Council and European Parliament) in accordance with the "legislative" procedures in force at the time the instrument under which they were established was adopted, namely the cooperation or advisory procedures and, ever since the Maastricht Treaty, the codecision procedure. Hence, the legal basis of the comitology committees is enshrined in a so-called 'basic' instrument; 2) their structure and working methods are in several respects standardised. The committees intervene in the framework of the procedures set out in the basic legislative instrument; 3) the committees exercise their power to deliver opinions on draft implementing measures submitted to them by the Commission pursuant to the basic legislative instrument and intervene in the framework of the advisory procedure, the management procedure or the regulatory procedure provided for to that effect. Pursuant to Article 2 of Council Decision 1999/468/EC, the management procedure should be reserved to management measures such as those relating to the application of the common agricultural and common fisheries policy or to the implementation of programmes with substantial budgetary implications. The regulatory procedure is prescribed in the case of measures of general scope designed to apply essential provisions of basic instruments, including measures concerning the protection of the health or safety of humans, animals or plants and in updating the "technical" elements of a basic instrument. The advisory procedure is applied in any case in which it is considered to be the most appropriate. It should also be noted that the Commission is obliged to inform the European Parliament about the committees' work and to send it all draft implementing measures pursuant to a basic instrument adopted under Article 251 of the Treaty, so that the European Parliament can exercise its right of scrutiny enshrined in Article 8 of Decision 1999/468/EC. The number of comitology committees has been calculated by sector of activity on the basis of the list of committees published in the Official Journal. Its status on 31.12.2000 was 244 committees. DG Environment, DG Enterprise, DG Agriculture, DG Transport and Energy and DG Health and Consumer Protection have the largest number of committees (at least 20 each). With 152 out of a total of 244 committees, these DGs alone account for more than half the committees. The overall figure may be broken down by the different types of procedure (advisory procedure (type I), management procedure (type II), regulatory procedure (type III), plus the safeguards procedure (type IV - Table II)). The different variants (IIa and IIb, IIIa and IIIb) are classified in the same type (I, II, III) in accordance with the 1987 comitology procedure. The overall figure also includes all corresponding functions - both under the 1987 Comitology Decision and the new 1999 Comitology Decision. Since certain committees have multiple functions (i.e. use a plurality of procedures ranging from type I to III, plus the safeguard procedure), these have been singled out from the other committees to provide a true picture of the applicable procedures. The global figures indicate that a relative majority of the committees (109 out of 244) consists of regulatory committees, followed by a considerably smaller number of management committees. The horizontal breakdown by sector is quite well balanced, with a number of exceptions,

notably DG Environment (with a large number of regulatory committees) and DG Agriculture (with a large number of management committees). A sectoral snapshot of the committees' activities should include the opinions delivered by all the committees in a sector. Opinions may be of various kinds: they may concern draft legislative instruments (directives, regulations), decisions designed to regulate a specific (individual) legal situation or to approve financial projects in the context of any of the many Community programmes, or just position statements (which explains why the total number of favourable opinions may be greater than the total number of instruments adopted in a specific sector). In the event of a favourable opinion, the rule is that the Commission adopts the implementing measures (the instruments adopted); under the management procedure it may also adopt an instrument in the absence of an opinion. It is only in the eventuality of an unfavourable opinion that the decision is referred to the Council as "an appeal body".