

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

1998/0219(CNS) - 09/08/2006 - Follow-up document

PURPOSE: to report on the working of committees in 2005.

CONTENT: this report covers the activities of the comitology committees which met during the course of 2005. Attached to the report is an Annex containing detailed statistics regarding the individual comitology committees. The Annex also provides textual comments on changes relating to a number of committees and on exceptional events relating to specific draft measures, such as unfavourable opinions, EP resolutions resulting from the exercise of the right of scrutiny and referrals to the Council. The report also examines inter-institutional negotiations on the revision of Council Decision 1999/468/EC, which is soon to be concluded.

As a reminder, the purpose of the comitology committees is to assist the Commission in exercising its *implementing powers*. Comitology committees need to be distinguished from other committees and groups of experts set up by the Commission to assist it in exercising its *right of initiative* or in carrying out monitoring, coordination or co-operation tasks with the Member States. These consultative bodies, of which there are around 1 300, are not analysed in this report.

The European Parliament's right of scrutiny: The Commission is obliged to inform the European Parliament of work in progress in the Committees and to send it all draft implementing measures concerning basic legal acts which have been adopted in conformity with the co-decision procedure. In February 2000, the European Parliament and the Commission concluded an "Agreement on procedures for implementing Council Decision 1999/468/EC". This was specifically designed to regulate the procedures for implementing the obligations incumbent on the Commission. Although, under the terms of the Agreement, the Commission has one month in which to forward a definitive draft implementing measure, in practice the Commission uploads the draft implementing measure into the register at the same time as they send it to the Member States. If a vote is launched by written procedure, without a committee meeting being held in accordance with the rules of Procedure, the same applies. Once the vote has taken place the Commission is instructed to complete a voting form, which indicates the global result of the vote in respect of the specific draft implementing measure.

In cases where the draft implementing measure has been amended, it will be uploaded a second time into the register, together with the voting form, and sent to the European Parliament. In cases where the draft implementing measure remains unchanged, only the voting form is uploaded and transmitted to the European Parliament. The version of the draft implementing measure initially uploaded is then considered the final draft.

Resolutions adopted by the European Parliament in 2005: In 2005, the European Parliament adopted two Resolutions, in which it claimed that the Commission exceeded the implementing powers conferred upon it when adopting specific implementing measures. In both cases they concerned environmental issues: waste and hazardous substances in electrical and electronic equipment. In both cases, the Commission defends its position and is waiting for a Court ruling on the matter.

Review of transmissions to the European Parliament: In a 2005 Resolution, the Parliament called on the Commission to undertake a careful review of all transmissions of draft implementing measures since

the register went into production. The result of a Commission review was accordingly forwarded to the Parliament in 2005. In cases where anomalies were detected, the Commission proposed an “ex-post” control, which gave the Parliamentary committees concerned the possibility to re-examine the implementing measures. The Commission also offered to repeal any measure the European Parliament requested – such as the end of life vehicles Directive. Further, the Commission implemented reinforced internal control mechanisms within its administrative procedures to avoid similar problems in the future.

Referrals to the Council: In 2005, a total of 11 cases were referred to the Council. They occurred in four policy areas; Health and Consumer Protection; Environment; Europe Aid and Statistics. The eleven cases referred to the Council represent less than 0.5% of the total number of implementing measures adopted by the Commission under the management or regulatory procedures of which there were 2 637. The Commission points out that 10 referrals were draft Commission decisions regarding the authorisation to place genetically modified products on the market. The high concentration of GMO referrals can be attributed to the divided views of the Member States.

Reform of the current comitology system: At the end of the Austrian Presidency in June 2006, the three institutions reached agreement modifying Council Decision 1999/468/EC and the introduction of new regulatory procedures with scrutiny. This new procedure will apply to implementing measures of a general scope and to non-essential elements of basic legal acts adopted under the co-decision procedure. The Parliament obtains the right to veto the substance of such implementing measures and, as a result, greatly improves its control powers over the implementing powers conferred on the Commission by comitology procedures.

The Committees in figures: Transport/energy (38), enterprise (32), environment (32) and Agriculture (31) continue to have by far the largest number of committees. With 133 out of a total of 250 committees, these policy sectors alone account for more than half of all the committees. Commission efforts to stabilise the number of committees is beginning to bear fruit. Whilst the overall number of committees at the end of 2005 were slightly higher than in 2004, it still meets the Commission objective to limit the number of committees to around 250.