Mechanisms for control by Member States of the Commission’s exercise of implementing powers, 'Comitology Regulation'

2010/0051(COD) - 23/11/2012 - Follow-up document

In accordance with 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 (the ‘Comitology Regulation’), the Commission presents the annual report on the working of committees for 2011. The report contains an overview of developments in the comitology system in 2011 and a summary of the committees’ activities. The Comitology Regulation entered into force on 1 March 2011. It repealed Council Decision 1999/468/EC (the Comitology Decision) and replaced the procedures set out in that Decision by just two procedures (advisory and examination procedures).

Since 1 March 2011, therefore, the comitology committees have been operating under the procedures set out in the Comitology Regulation: advisory (Article 4 of the Comitology Regulation) and examination (Article 5 of the Comitology Regulation), as well as under the regulatory procedure with scrutiny set out in Article 5a of the ‘old’ Comitology Decision).

The Commission notes that it is important to distinguish between the comitology committees, on the one hand, and other entities, in particular ‘expert groups’ created by the Commission itself, on the other.

The report focuses exclusively on comitology committees. In 2011, the comitology committees could generally be broken down according to the type of procedure under which they operated (advisory procedure, examination procedure, regulatory procedure with scrutiny). Because certain committees applied multiple procedures, they have been separated from committees operating under a single procedure.

The figures indicate that **around 37% of the committees (99 out of 268) worked exclusively under the examination procedure, while only about 8% of the committees (23 out of 268) worked exclusively under the advisory procedure**. However, **most committees (121 out of 268 or 45%) operated under several procedures**. The breakdown by policy sector shows that use of different types of procedures varies from one policy sector to another.

The number of committees is not the only indicator of activity at comitology level. The number of meetings held, as well as the number of written procedures used in 2011 also reflects the intensity of work in general, at sector level and also in individual committees

Number of opinions and implementing acts/ measures: the report provides overall figures on the formal opinions delivered by the committees and the subsequent implementing acts/measures adopted by the Commission. These figures quantify the tangible ‘output’ of the committees. The committees delivered a total of 1868 opinions in 2011 (compared with 1904 in 2010). A total of 1788 implementing acts/measures were adopted by the Commission (compared with 1 812 in 2010).

Meetings of the appeal committee: on 29 March 2011, the appeal committee met for the first time in order to adopt its Rules of Procedure in line with the Comitology Regulation. The appeal committee met four more times during 2011, and discussed eight draft implementing acts (in the area of Health and

Consumers), which were referred by the Commission. In two cases, the appeal committee delivered a positive opinion, in five cases no opinion, and in one case a negative opinion. In the five cases in which no opinion was delivered, the Commission decided to adopt the implementing acts.

Use of the Regulatory Procedure with Scrutiny: this procedure has not been affected by the comitology reform of 2011. It procedure can no longer be used in new legislation, but it still appears in several existing basic acts and will continue to apply under those acts until they are formally amended.

The number of implementing measures adopted according to RPS in 2011 stands at 163. In 2011, the right of veto was used in two cases:

- in May 2011 the Council opposed the adoption of a draft Commission Directive amending Directive 98/79/EC of the European Parliament and of the Council on in vitro diagnostic medical devices. The draft measure was consequently not adopted. A revised measure was adopted by the Commission on 20 December 2011;

- in October 2011 the Council opposed the adoption of a draft Commission Directive amending Directive 2009/43/EC of the European Parliament and of the Council as regards the list of defence-related products. The draft measure was consequently not adopted. A revised measure was adopted by the Commission on 22 March 2012.

In 2010, by comparison, the European Parliament made use of the right of veto on draft measures in one case and the Council in two cases.