



COMMISSION OF THE EUROPEAN COMMUNITIES

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**REPORT FROM THE COMMISSION**  
**on the working of committees during 2003**

{SEC(2004)1722}

## 1. GENERAL COMMENTS REGARDING THE COMITOLOGY SYSTEM

The present report covers the activities of comitology committees during the year 2003. It follows the basic structure of the previous report covering the year 2002. It contains an introductory Section 1, a horizontal overview of committees' activities in Section 2 and an Annex with detailed statistics regarding the individual comitology committees, organised according to the different departments of the Commission.<sup>1</sup> This report maintains the improved transparency of the statistics in the Annex by listing all committees individually together with textual comments on their activities.

### 1.1 The legal nature and role of the comitology committees

The purpose of the comitology committees is to assist the Commission in exercising the implementing powers conferred upon it by the legislator, i.e. the Council and the European Parliament. The comitology committees share three essential features.

*First*, they are created by the legislator (the Council and the European Parliament) in accordance with the "legislative" procedures in force at the time of adoption of the basic instrument under which they are established, namely the co-operation or advisory procedures and, since the Maastricht Treaty, the codecision procedure. Hence, the legal basis of the comitology committees is enshrined in a so-called "basic instrument".

*Second*, their structure and working methods are in several respects standardised. A representative of the Commission chairs each committee, which consists of Member State representatives; these are the only "members" of the committees. The committees intervene within the framework of the procedures set out in the basic legislative instrument, in compliance with the Council's comitology decision.

Article 9 of Council Decision 1999/468/EC<sup>2</sup> repeals the old comitology Decision 87/373/EEC of 13 July 1987 (the 1987 Comitology Decision).<sup>3</sup> The 1987 procedures remained temporarily in force until the amendment of the basic legislative instruments, in line with the comitology procedures pursuant to Decision 1999/468/EC. This has been achieved either by individual amendment acts or by the "alignment regulations" (see Section 1.2).

*Third*, the committees deliver opinions on draft implementing measures submitted to them by the Commission pursuant to the basic legislative instrument and intervene within the framework of the advisory procedure, the management procedure or the regulatory procedure provided for that purpose.

Pursuant to Article 2 of Council Decision 1999/468/EC, the management procedure should be reserved for 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 (Article 2(a)). 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

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<sup>1</sup> The Annex is presented as a Commission staff working paper.

<sup>2</sup> OJ L 184, 17.07.1999, p. 23.

<sup>3</sup> OJ L 197, 18.07.1987, p. 33.

plants and in updating the “technical” elements of a basic instrument (Article 2(b)). The advisory procedure is applied wherever it is considered to be the most appropriate.

## 1.2 The state of implementation of Decision 1999/468/EC

In Declaration No 2 on the implementation of Council Decision 1999/468/EC,<sup>4</sup> the Council and the Commission agreed to adapt, as soon as possible, and in compliance with the appropriate legislative procedures, the provisions governing the committees assisting the Commission in the exercise of its implementing powers under Decision 87/373/EEC so as to bring them into line with the provisions of Articles 3 to 6 of Decision 1999/468/EC.

Since the entry into force of Decision 1999/468/EC, the committee procedures of a number of basic instruments have been updated on a case-by-case basis. In order to complete the update, at the end of 2001 the Commission presented a package of four proposals (the so-called “*alignment regulations*”),<sup>5</sup> covering more than 300 basic instruments laying down implementing procedures. The Council and the Parliament adopted the “*alignment regulations*” in the course of 2003<sup>6</sup> in accordance with the relevant legislative procedures (assent procedure, codecision procedure and consultation procedure with qualified majority and unanimity). It is worth noting that the alignment acts do not affect the substantive provisions of the legislative acts, nor do they affect the safeguard procedures or the identity of the committees provided for by the basic legal acts.

As an important new element, Article 7 of Decision 1999/468/EC, and Council and Commission statements relating to that provision (notably statements Nos 4 and 5), put in place measures designed to *improve the transparency* of the working of the comitology committees.

In this respect, publication of the present *annual report on the working of the committees*, as provided for in Article 7(4), is in itself a significant contribution towards shedding light on the Commission’s activities in terms of exercising its implementing powers.

Also, in compliance with Article 7(4), the Commission has published a *list of all the committees* which help it exercise these implementing powers.<sup>7</sup> A continuously updated inventory of existing committees can be consulted in the *register* (see below) and the annual reports.

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<sup>4</sup> OJ C 203, 17.07.1999, p. 1.

<sup>5</sup> COM(2001) 789 final, adopted on 27.12.2001.

<sup>6</sup> Council Regulations (EC) No 806/2003 (OJ L 122, 16.05.2003, p. 1) and No 807/2003 (OJ L 122, 16.05.2003, p. 36) of 14.4.2003 adapting to Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority/unanimity), Council Regulation (EC) No 1105/2003 (OJ L 158, 27.06.2003, p. 3) of 26.5.2003 amending Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds (assent procedure) and Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1) of 29.9.2003 adapting to Council Decision 1999/468/EC the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty (codecision).

<sup>7</sup> OJ C 225, 08.08.2000, p. 2.

On 31 January 2001, in compliance with Article 7(1), the Commission adopted the *standard rules of procedure*<sup>8</sup> on the basis of which the existing or newly created committees draw up their rules of procedure. The Commission intends to adopt an updated version of the standard rules of procedure, mainly to bring them into line with the new rules on access to documents (see below). By the end of 2003, 94 of the total of 263 committees had adopted internal rules of procedure based on the standard text in force.

Finally, Article 7(5) of Decision 1999/468/EC provides that the Commission has to publish a register giving the *references of all documents sent to the European Parliament under comitology procedures*. This register has been in operation since December 2003.<sup>9</sup> According to its statement (No 5) on Council Decision 1999/468/EC, the Commission added a *repository* to the register as an additional transparency measure, making many documents communicated to the European Parliament directly available to the public in accordance with Regulation (EC) No 1049/2001 of the Parliament and of the Council regarding public access to the institutions' documents.<sup>10</sup> which came into effect on 3 December 2001. The repository contains agendas, summary records and voting results of the committee meetings and work; draft implementing measures are provisionally not published.

### 1.3 The European Parliament's right of scrutiny

The Commission is obliged to inform the European Parliament about the work of the committees and to send it all draft implementing measures pursuant to a basic instrument adopted under Article 251 of the Treaty (codecision), so that the European Parliament can exercise its right of scrutiny enshrined in Article 8 of Decision 1999/468/EC.

In February 2000, the European Parliament and the Commission concluded an *Agreement on procedures for implementing Council Decision 1999/468/EC*, designed specifically to regulate the procedures for implementing the obligations incumbent on the Commission.<sup>11</sup>

The agreement provides for the electronic transmission of documents, a task which was implemented progressively during 2001. Documents from the various Commission departments are first transmitted to the Secretariat-General of the Commission, which promptly dispatches them to a central service at the European Parliament. Today practically all documents are transmitted electronically.

Except in emergencies, the agreement stipulates a period of one month from receipt of a "definitive" draft implementing measure<sup>12</sup> under a legal act adopted through codecision to allow the European Parliament, where appropriate, to adopt a resolution (in plenary session),

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<sup>8</sup> OJ C 38, 06.02.2001, p. 3. Following a number of amendments to be approved by the Commission and linguistic review, the standard rules of procedure will be published afresh in the Official Journal.

<sup>9</sup> See the Internet address: [http://europa.eu.int/comm/secretariat\\_general/regcomito/registre.cfm?CL=en](http://europa.eu.int/comm/secretariat_general/regcomito/registre.cfm?CL=en)  
The register covers documents as of the beginning of 2003.

<sup>10</sup> OJ L 145, 31.05.2001, p. 43.

<sup>11</sup> OJ L 256, 10.10.2000, p. 19. The agreement replaces certain earlier agreements: the Plumb/Delors Agreement of 1988, the Samland/Williamson Agreement of 1996 and the "modus vivendi" of 1994.

<sup>12</sup> The drafts are first sent before the committee meeting and, if they are substantially amended during the meeting, again afterwards.

pursuant to Article 8 of Council Decision 1999/468/EC, if it considers that the draft measure exceeds the implementing powers enshrined in the basic instrument.<sup>13</sup>

The bilateral agreement of February 2000 was implemented by a further *administrative agreement* between the Secretariats General of the European Parliament and the Commission, dated 14 December 2001. This administrative agreement is intended to ensure a harmonised approach by the departments of the Commission so that all the Commission obligations under the bilateral agreement of February 2000 are properly fulfilled. In particular, it provides for minimum standards with regard to the types of documents and their structure. It is worth noting that during 2003 there were again no cases reported where the European Parliament felt the need to adopt a resolution based on Article 8 of Council Decision 1999/468/EC.

#### **1.4 Referrals to the Council**

No case of referrals to the Council was reported in 2003. Pursuant to Council Decision 1999/468/EC, draft measures must be referred to the Council when the Commission fails to obtain the necessary majority under the regulatory procedure or faces an opposing qualified majority under the management procedure. The absence of referrals (and in previous years the small percentages of less than 1 % compared with the total number of instruments adopted by the Commission under the management or regulatory procedure) shows that the work of the committees under the current system results in a high degree of consensus and that the proposals by the Commission representatives are normally approved by the committees.

#### **1.5 Wider developments**

In December 2002, the European Commission submitted a proposal for a revised regulatory procedure<sup>14</sup> for measures designed to widely implement the essential aspects or adapt certain other aspects of basic acts adopted under the codecision procedure (Article 251 of the Treaty). This proposed new procedure places the European Parliament and the Council on an equal footing in supervising the Commission's exercise of implementing powers. On 2 September 2003, the European Parliament broadly endorsed the Commission's proposal,<sup>15</sup> while suggesting a very limited number of technical amendments. On 22 April 2004, the Commission issued an amended proposal<sup>16</sup> to take on board the bulk of the European Parliament's amendment, and clarify the new procedure. The amended proposal is currently under examination in the Council.

The *Convention on the Future of Europe* proposed to the Intergovernmental Conference (IGC) in its draft Constitutional Treaty to reorganise the executive powers of the Commission.<sup>17</sup> The Convention's draft introduces the instrument of "delegated" regulations to be adopted by the Commission in order to supplement or amend certain "non-essential" elements of the European laws under the control of the Parliament and the Council, which may revoke the delegation itself or object to a specific draft regulation; these delegated

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<sup>13</sup> This basic instrument must itself have been adopted under the codecision procedure (Article 251 of the Treaty) between the Council and the European Parliament.

<sup>14</sup> Proposal for a Council Decision amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (COM (2002) 719 final, adopted 11.12.2002).

<sup>15</sup> Resolution adopted on 2.9.2003 (P5-TA(2003)0352), based on the report of R. CORBETT.

<sup>16</sup> COM (2004) 324 final, dated 22.4.2004.

<sup>17</sup> Draft Treaty establishing a Constitution for Europe, submitted to the European Council meeting in Thessaloniki, 20.6.2003, Articles I-35 and I-36.

regulations are to be distinguished from the mere implementing acts that the Commission mainly will adopt under some control by the Member States. The text remained unchanged in the final version adopted by the Intergovernmental Conference at the meeting of the European Council 17/18 June 2004.<sup>18</sup>

The *enlargement of the European Union* took place on 1 May 2004. Following the Conclusions of the Copenhagen Summit of December 2002, on 25 February 2003 the Commission adopted measures<sup>19</sup> granting *active observer status* to the ten acceding states, which applied from the day following the signature of the Accession Treaty on 16 April 2003.<sup>20</sup> Under this arrangement, representatives of the acceding states were invited to most comitology committees; they had the possibility of expressing their views on the issues discussed in the meetings but no right to take part in the voting on draft implementing measures. For the remaining three candidate countries (Bulgaria, Romania and Turkey), the participation continued to be organised on the basis of the “Communication from the Commission to the Council on the participation of candidate countries in Community programmes, agencies and committees”.<sup>21</sup> In the course of the reporting year, the ten acceding states were represented in approximately 186 of the total of 256 committees.

## 2. HORIZONTAL OVERVIEW OF ACTIVITIES

### 2.1 Number of committees and types of procedures

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 hand. The latter are concerned with preparing and carrying out policies, whereas the comitology committees are involved in the context of implementing legislative acts. The present report focuses exclusively on comitology committees. The number of comitology committees has been calculated by sector of activity (Table I) as at 31.12.2003. The figures for the previous year (status as at 31.12.2002) are given for comparison.

**TABLE I – TOTAL NUMBER OF COMMITTEES**

<b>Policy Sector</b>	<b>2002</b>	<b>2003</b>
Enterprise (ENTR)	31	33
Employment and Social Affairs (EMPL)	8	8
Agriculture (AGRI)	29	30
Transport/Energy/Trans-European Networks (TREN)	39	45

<sup>18</sup> See Provisional consolidated version of the draft Treaty establishing a Constitution for Europe, document CIG 86/04, dated 25.6.2004.

<sup>19</sup> Commission Document C(2003)341/3.

<sup>20</sup> TOWARDS THE ENLARGED UNION, Strategy Paper and Report of the European Commission on the progress towards accession by each of the candidate countries (9.10.2002), COM(2002) 700 final, see point 3.3 (p. 25).

<sup>21</sup> COM (1999) 710 final, adopted 20.12.1999.

Environment (ENV)	35	35
Research (RTD)	8	2
Information Society (INFSO)	13	13
Fisheries (FISH)	3	3
Internal Market (MARKT)	11	12
Regional Policy (REGIO)	2	2
Taxation and Customs Union (TAXUD)	9	9
Education and Culture (EAC)	6	7
Health and Consumer Protection (SANCO)	22	13*
Justice and Home Affairs (JAI)	7	7
External Relations (RELEX)	2	3
Trade (TRADE)	12	13
Enlargement (ELARG)	2	2
Europe Aid (AIDCO)	8	8
Humanitarian Aid (ECHO)	1	1
Statistics (ESTAT)	6	7
Budget (BUDG)	1	2
Anti-Fraud Office (OLAF)	1	1
<b>TOTAL</b>	<b>256</b>	<b>256</b>

The figures indicate the relative importance of comitology in the activities in the different policy sectors. Transport/Energy (45), Environment (35), Enterprise (33) and Agriculture (30) have the largest number of committees. With 143 out of a total of 256 committees, these policy sectors alone account for more than half of the committees. The Commission continues its efforts to minimise the growth in the number of committees. Thus, the number of committees in 2003 is stable, compared with 2002. Whilst the legislator in some policy areas with increased activities (notably in the area of Transport and Energy) has established new committees, in other policy sectors the number has decreased as a consequence of the

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\* Unlike the previous year, the Standing Committee on the Food Chain and Animal Welfare with its nine sections and subsections is counted as one single committee, following the coming into force of regulation No 178/2002, OJ L 31, 1.2.2002, p. 1.

restructuring of the legal framework (see, for example, Health and Consumer Protection and Research).

The comitology committees can be classified according to the type of procedure under which they operate (advisory procedure, management procedure, regulatory procedure, and safeguard procedure - see Table II). For part of the year 2003, the 1987 comitology procedures continued to apply until the entry into force of the “alignment regulations” (see Section 1.2 above). The different *variants* vis-à-vis the 1987 comitology procedures (IIa and IIb, IIIa and IIIb) are counted together with the corresponding new types of procedures as prescribed in Declaration No 2 on the implementation of Council Decision 1999/468/EC.<sup>22</sup>

Since certain committees apply multiple procedures (ranging from the advisory procedure to the regulatory procedure, plus the safeguard procedure), they have been singled out from the committees operating according to a unique procedure.

**TABLE II – NUMBER OF COMMITTEES BY PROCEDURE (2003)**

	Type of procedure				Committees operating under several procedures
	Advisory*	Management*	Regulatory*	Safeguard	
ENTR	9	4	18	-	2
EMPL	1	-	3	-	4
AGRI	-	23	4	-	3
TREN	7	12	21	1	4
ENV	3	6	26	-	-
RTD	-	1	-	-	1
INFSO	1	3	3	-	6
FISH		1	-	-	2
MARKT	2	4	6	-	-
REGIO	-	1	-	-	1
TAXUD	1	4	4	-	-
EAC	1	-	-	-	6
SANCO	1	-	7	-	5

<sup>22</sup> OJ C 203, 17.07.1999, p. 1. This means: Variant I together with the advisory procedure, variants IIa and IIb together with the management procedure and variants IIIa and IIIb together with the regulatory procedure.



JAI	1	-	1	-	5
RELEX	1	1	-	-	1
TRADE	2	3	2	-	6
ELARG	-	1	-	1	-
AIDCO (incl. DEV)	-	6	2	-	-
ECHO	-	-	-	-	1
ESTAT	-	4	1	-	2
BUDG	1	-	1	-	-
OLAF	-	-	1	-	-
<b>TOTAL</b>	<b>31</b>	<b>74</b>	<b>100</b>	<b>2</b>	<b>49</b>

\* Including, respectively, procedures I, II and III in accordance with Council Decision 87/373/EC

The figures indicate that nearly half of the committees (100 out of 256) work exclusively under the regulatory procedure, followed by a considerably smaller number of committees working exclusively under the management procedure (74). The breakdown by policy sector shows that the use of the three types of procedures varies from policy sector to policy sector. However, in some of the policy sectors, a clear dominance of one of the procedures can be noted: Transport/Energy and Environment work with a large number of committees functioning under the regulatory procedure, whereas Agriculture works with a large number of committees functioning under the management procedure.

## 2.2 Number of meetings

The number of committees is not the only indicator of activity at comitology level. The *number of meetings* held in 2003 reflects the intensity of work in general, at sector level and in individual committees (Table III).

**TABLE III – NUMBER OF MEETINGS**

	<b>2002</b>	<b>2003</b>		<b>2002</b>	<b>2003</b>
ENTR	44	59	EAC	19	23
EMPL	17	17	SANCO	109	101
AGRI	352	322	JAI	28	21
TREN	23	44	RELEX	1	5
ENV	49	54	TRADE	37	32

RTD	46	50	ELARG	7	8
INFSO	36	31	AIDCO	40	35
FISH	25	25	ECHO	10	10
MARKT	25	38	ESTAT	15	17
REGIO	12	12	BUDG	5	6
TAXUD	106	113	OLAF	1	1

As in 2002, Agriculture leads the field (with 322 meetings), since managing the different agricultural markets requires frequent meetings. It is followed by Taxation and Customs Union (with 113 meetings) and Health and Consumer Protection (with 101 meetings) - which is responsible, among other things, for food safety - and a group of other sectors, like Enterprise, Environment and Research, where the number of meetings is in the range of 50 to 70.

### 2.3 Number of opinions and instruments

As introduced in the previous report, the present report gives global figures on the formal *opinions* delivered by the committees<sup>23</sup> and the subsequent *instruments* (i. e. implementing measures = legal acts, administrative decisions) adopted by the Commission. These figures describe the concrete “output” of the committees (Table IV). The total number of *opinions* delivered by the committees in 2003 was 2.981 (compared to 3.610 in 2002); the number of *instruments* adopted by the Commission was 2.768 (compared to 3.077 in 2002). Both indicators show that there was quantitatively a somewhat less important “output” in the reporting year, compared to the previous period.

**TABLE IV – NUMBER OF OPINIONS AND INSTRUMENTS (2003)**

	Opinions	Instruments		Opinions	Instruments
ENTR	395	352	EAC	97	47
EMPL	16	0	SANCO	392	392
AGRI	1.413	1.413	JAI	13	7
TREN	30	24	RELEX	4	4
ENV	39	31	TRADE	66	55
RTD	74	60	ELARG	83	90

<sup>23</sup> Including favourable, unfavourable and no opinions, following a formal vote in the case of regulatory and management procedures.

INFSO	34	21	AIDCO	164	153
FISH	19	9	ECHO	42	42
MARKT	10	8	ESTAT	26	18
REGIO	29	7	BUDG	1	1
TAXUD	34	34	OLAF	0	0

The large number of *instruments* adopted in certain policy sectors - Agriculture (1.413), Health and Consumer Protection (392) and Enterprise (352) - again reflect the intensity of work delegated to the Commission in these areas via the comitology procedures.<sup>24</sup>

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<sup>24</sup> However, it has to be noted that the sheer number of instruments adopted as such does not indicate the political, economic or financial importance of the decisions taken.