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REPORT FROM THE COMMISSION
on the working of Committees during 2016

{SWD(2017) 337 final}

REPORT FROM THE COMMISSION

ON THE WORKING OF COMMITTEES DURING 2016

In accordance with Article 10(2) of 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 powers¹ (the 'Comitology Regulation'), the Commission hereby presents the annual report on the working of committees for 2016.

This report gives an overview of developments in the comitology system in 2016 and a summary of the committees' activities. It is accompanied by a staff working document containing detailed statistics on the work of the individual committees.

1. OVERVIEW OF DEVELOPMENTS IN THE COMITOLGY SYSTEM IN 2016

1.1 General development

As described in the 2013 annual report², all comitology procedures provided for in the 'old' Comitology Decision³, with the exception of the regulatory procedure with scrutiny (RPS), were automatically adapted to the new comitology procedures provided for in the Comitology Regulation (Regulation (EU) 182/2011).

In 2016, the comitology committees were therefore operating under the procedures set out in the Comitology Regulation, i.e. advisory (Article 4) and examination (Article 5), as well as under the regulatory procedure with scrutiny (RPS) set out in Article 5a of the Comitology Decision.

The Interinstitutional Agreement on Better Law-Making of 13 April 2016⁴ recalls the need to align the regulatory procedure with scrutiny:

"The three institutions acknowledge the need for the alignment of all existing legislation to the legal framework introduced by the Lisbon Treaty, and in particular the need to give high priority to the prompt alignment of all basic acts which still refer to the regulatory procedure with scrutiny. The Commission will propose that latter alignment by the end of 2016."

In line with this commitment, the Commission adopted a new proposal for the alignment of the basic acts providing for the regulatory procedure with scrutiny to delegated and implementing acts⁵. It also adopted a second proposal, dealing specifically with the alignment

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

² Report from the Commission on the working of committees during 2013, COM(2014)572 final.

³ Council Decision 1999/468/EC of 28 June 1999 (OJ L 184, 17.7.1999, p. 23), as amended by Council Decision 2006/512/EC (OJ C 255, 21.10.2006, p. 4).

⁴ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016Q0512\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016Q0512(01)&from=EN).

⁵ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (COM(2016)799).

of basic acts in the field of justice⁶. The interinstitutional negotiations on both files have started in 2017.

In 2016 the Commission reported⁷ on the functioning of Regulation 182/2011, five years after its entry into force.

In September 2016 the President of the Commission in his State of the Union address to the European Parliament announced a Commission initiative to enhance the democratic character of the comitology procedure by stating: *'It is not right that when EU countries cannot decide among themselves whether or not to ban the use of glyphosate in herbicides, the Commission is forced by Parliament and Council to take a decision. So we will change those rules – because that is not democracy.'*⁸.

As follow up to the President's statement, the Commission adopted on 13 February 2017 a 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 (COM(2017) 85/3).

As of the 1st of July 2016, the Commission started publishing draft implementing acts and draft Regulatory Procedure with Scrutiny acts for a four-week public feedback period⁹. This is an important element in the new transparency approach and comes following the commitment undertaken in the 2015 Better Regulation Communication¹⁰: "Important implementing acts which are subject to Committee opinion will also be made public for four weeks, allowing stakeholders to submit comments before any vote by Member States in the relevant Committee". Once the feedback received is assessed, the draft act is submitted for the vote of the relevant committee. During the committee meeting the Commission explains how the feedback was taken into account and includes this explanation in the summary record of the meeting (which is publicly available in the Comitology Register¹¹).

1.2 Development of case law

With reference to the judgment of the Court of Justice of 1 March 2016 in Case C-440/14, National Iranian Oil Company v Council, which does not directly concern the exercise by the Commission of its implementing powers, but it is important in view of the reasons which justify in certain exceptional cases the granting of implementing powers to the Council¹².

⁶ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL adapting a number of legal acts in the area of Justice providing for the use of the regulatory procedure with scrutiny to Article 290 of the Treaty on the Functioning of the European Union (COM(2016)798).

⁷ Report from the Commission to the European Parliament and the Council on the implementation of Regulation (EU) 182/2011 (COM(2016)92).

⁸ State of the Union Address 2016: https://ec.europa.eu/priorities/state-union-2016_en

⁹ https://ec.europa.eu/info/law/better-regulation/have-your-say_en

¹⁰ Communication "Better regulation for better results - An EU agenda", COM(2015) 215 final

¹¹ <http://ec.europa.eu/transparency/regcomitology/index.cfm>

¹² [C-440/14 P](#) - National Iranian Oil Company v Council

2. OVERVIEW OF ACTIVITIES

2.1 Number of committees and meetings

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 latter provide expertise to the Commission¹³ in preparing and implementing policy as well as delegated acts, whereas comitology committees assist the Commission in the exercise of the implementing powers that have been conferred upon it by basic legal acts. This report focuses exclusively on comitology committees. The number of active comitology committees in the period 1 January to 31 December 2016 was calculated by sector of activity (see Table I). The figures for the previous year (on 31 December 2015) are also given for purposes of comparison. Sections and configurations are not counted separately as these belong to a parent committee.

TABLE I — TOTAL NUMBER OF COMMITTEES

Policy sector	2016	2015
AGRI (Agriculture and Rural Development)	17	18
BUDG (Budget)	2	2
CLIMA (Climate Action)	5	5
CNECT (Communications Networks, Content and Technology)	6	5
DEVCO (International Cooperation and Development)	5	5
DIGIT (Informatics)	1	2
EAC (Education and Culture)	2	5
ECFIN (Economic and Financial Affairs)	1	1
ECHO (Humanitarian Aid and Civil Protection)	2	2
EMPL (Employment, Social Affairs and Inclusion)	5	4
ENER (Energy)	14	14
ENV (Environment)	30	31
ESTAT (Eurostat)	6	6
FISMA (Financial Stability, Financial Services and Capital markets Union)	8	8
FPI (Service for Foreign Policy Instruments)	4	4
GROW (Internal Market, Industry, Entrepreneurship and SMEs)	41	43
HOME (Migration and Home Affairs)	13	11
JUST (Justice and Consumers)	23	21
MARE (Maritime Affairs and Fisheries)	4	4
MOVE (Mobility and Transport)	31	30
NEAR (Neighbourhood and Enlargement Negotiations)	3	3
OLAF (European Anti-Fraud Office)	1	1
REGIO (Regional and Urban Policy)	1	1
RTD (Research and Innovation)	5	5
SANTE (Health and Food Safety)	21	21
SG (Secretariat-General)	3*	3*
TAXUD (Taxation and Customs Union)	11	11
TRADE (Trade)	12	14
TOTAL:	277	280

* Including the appeal committee (for the needs of the comitology register, the appeal committee is registered as a committee under the responsibility of SG; in practice, it is managed by all services concerned).

¹³ For more details see: <http://ec.europa.eu/transparency/regexpert/index.cfm>.

In 2016, 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 — see Table II). Certain committees which applied multiple procedures have been separated from committees operating under a single procedure.

TABLE II — NUMBER OF COMMITTEES BY PROCEDURE (2016)

	Type of procedure				TOTAL:
	Advisory	Examination	Regulatory with scrutiny	Operates under several procedures	
AGRI	0	11	0	6	17
BUDG	1	1	0	0	2
CLIMA	0	1	0	4	5
CNECT	0	3	0	3	6
DEVCO	0	2	0	3	5
DIGIT	0	1	0	0	1
EAC	0	1	0	1	2
ECFIN	0	0	0	1	1
ECHO	0	1	0	1	2
EMPL	0	0	2	3	5
ENER	2	6	3	3	14
ENV	0	6	5	19	30
ESTAT	0	2	0	4	6
FISMA	0	1	2	5	8
FPI	0	3	0	1	4
GROW	6	9	4	22	41
HOME	2	8	0	3	13
JUST	7	5	4	7	23
MARE	0	2	0	2	4
MOVE	3	8	4	16	31
NEAR	1	1	0	1	3
OLAF	0	1	0	0	1
REGIO	0	0	0	1	1
RTD	0	4	0	1	5
SANTE	0	10	0	11	21
SG	0	2	0	1	3
TAXUD	1	8	0	2	11
TRADE	2	4	0	6	12
TOTAL:	25	101	24	127	277

* Including the appeal committee.

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*¹⁴ used in 2016, also reflects the intensity of work in general, both at sector level and in individual committees (Table III).

¹⁴ The committee voting can take place in a regular committee meeting or, in duly justified cases, by written procedure, in accordance with Article 3(5) of the Comitology Regulation.

TABLE III — NUMBER OF MEETINGS AND WRITTEN PROCEDURES

	Number of committees	Meetings		Written procedures	
		2016	2015	2016	2015
AGRI	17	111	145	7	10
BUDG	2	4	4	0	0
CLIMA	5	7	6	1	1
CNECT	6	18	15	12	11
DEVCO	5	18	16	11	7
DIGIT	1	2	3	0	0
EAC	2	5	4	3	1
ECFIN	1	0	1	0	0
ECHO	2	4	6	4	5
EMPL	5	4	4	1	5
ENER	14	12	16	4	2
ENV	30	26	38	11	12
ESTAT	6	6	6	5	5
FISMA	8	11	8	13	9
FPI	4	5	2	2	3
GROW	41	63	76	36	28
HOME	13	36	29	65	31
JUST	23	22	10	4	5
MARE	4	6	11	5	4
MOVE	31	52	51	25	22
NEAR	3	7	7	12	19
OLAF	1	1	2	1	0
REGIO	1	1	1	0	0
RTD	5	57	57	263	205
SANTE	21	117	106	437	437
SG	3	5*	5*	0	1
TAXUD	11	50	65	22	20
TRADE	12	24	25	38	25
TOTAL	277	674	719	982	868

* 5 meetings of the appeal committee.

2.2 Number of opinions and implementing acts/ measures

As always, this report provides overall figures on the formal *opinions* delivered by the committees and the subsequent *implementing acts/measures* adopted by the Commission¹⁵. These figures quantify the tangible ‘output’ of the committees (see Table IV). Out of the total number of draft implementing acts submitted to the committees in 2016, the EP adopted 12 resolutions on the basis of Article 11 of the Comitology Regulation, while the Council has not adopted any such resolution.

¹⁵ It is to be noted that there can be discrepancies between the number of opinions and the number of implementing acts/measures in any given year. The reasons for these are explained in the introduction to the accompanying staff working document.

TABLE IV — NUMBER OF OPINIONS AND IMPLEMENTING ACTS/MEASURES ADOPTED

	Opinions ¹⁶		Implementing Acts adopted		RPS Measures adopted	
	2016	2015	2016	2015	2016	2015
AGRI	110	116	105	116	1	1
BUDG	7	4	0	4	0	0
CLIMA	7	7	6	7	0	1
CNECT	20	20	14	12	0	1
DEVCO	57	57	55	58	0	0
DIGIT	1	1	1	1	0	0
EAC	4	5	4	2	0	0
ECFIN	0	1	0	1	0	0
ECHO	7	9	4	11	0	0
EMPL	4	9	3	6	0	0
ENER	8	8	4	1	6	6
ENV	38	37	13	16	11	11
ESTAT	11	16	3	6	5	10
FISMA	28	16	28	10	0	6
FPI	2	4	0	0	0	0
GROW	84	74	45	37	21	13
HOME	76	63	61	42	0	0
JUST	6	9	6	9	0	1
MARE	10	15	10	15	0	0
MOVE	65	55	44	46	17	17
NEAR	64	65	65	65	0	0
OLAF	2	0	2	0	0	0
REGIO	2	1	1	1	0	0
RTD	270	266	191	223	0	0
SANTE	717	736	632	671	55	62
SG	11*	11	9	23	0	0
TAXUD	82	82	67	65	0	0
TRADE	75	56	75	58	0	0
TOTAL	1 768	1 743	1 448	1 506	116	129

* Including 11 opinions delivered by the appeal committee and 9 adopted acts.

2.3 Meetings of the appeal committee

The appeal committee met 5 times during 2016, and discussed 11 draft implementing acts (in the areas of health and consumer policy and mobility and transport) which were referred by the Commission. The appeal committee delivered no opinion in 11 cases. The Commission decided to adopt 9 implementing acts.

¹⁶ A vote resulting in "no opinion" is counted towards the total number of opinions.

2.4 Use of the regulatory procedure with scrutiny (RPS)

As mentioned under Section 1, the RPS has not been affected by the comitology reform of 2011. This procedure can no longer be used in new legislation, but it still appears in many existing basic acts and will continue to apply under those acts until they are aligned. In 2016 108 measures were adopted according to the RPS (see Table V). The right to oppose was used once, by the European Parliament. In 2015, by comparison, the right to oppose was not used.

TABLE V — NUMBER OF MEASURES ADOPTED ACCORDING TO THE REGULATORY PROCEDURE WITH SCRUTINY (RPS)

	RPS Measures adopted	EP opposed adoption of draft measures under RPS	Council opposed adoption of draft measures under RPS
AGRI	1	0	0
BUDG	0	0	0
CLIMA	0	0	0
CNECT	0	0	0
DEVCO	0	0	0
DIGIT	0	0	0
EAC	0	0	0
ECFIN	0	0	0
ECHO	0	0	0
EMPL	0	0	0
ENER	6	0	0
ENV	11	0	0
ESTAT	5	0	0
FISMA	0	0	0
FPI	0	0	0
GROW	21	0	0
HOME	0	0	0
JUST	0	0	0
MARE	0	0	0
MOVE	17	0	0
NEAR	0	0	0
OLAF	0	0	0
REGIO	0	0	0
RTD	0	0	0
SANTE	47	1	0
SG	0	0	0
TAXUD	0	0	0
TRADE	0	0	0
TOTAL	108	1	0

3. Detailed information on the activities of the committees

The working document accompanying this report provides detailed information about the work of the individual committees in 2016, broken down on the basis of the different Commission departments concerned.

3. CONCLUSION

The European Parliament and the Council are invited to take note of this Report.