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**REPORT FROM THE COMMISSION**  
**ON THE WORKING OF COMMITTEES DURING 2012**

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# REPORT FROM THE COMMISSION

## ON THE WORKING OF COMMITTEES DURING 2012

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 powers<sup>1</sup> (the 'Comitology Regulation'), the Commission hereby presents the annual report on the working of committees for 2012.

This report contains an overview of developments in the comitology system in 2012 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 2012

#### 1.1 General development

As described in the report from 2011<sup>2</sup>, all comitology procedures provided for in the 'old' Comitology Decision<sup>3</sup>, with the exception of the regulatory procedure with scrutiny (RPS), were automatically adapted to the new comitology procedures provided for in the Comitology Regulation.

Therefore in 2012, the comitology committees have been operating under the procedures set out in the Comitology Regulation, i.e. advisory (Article 4 of the Comitology Regulation) and examination (Article 5 of the Comitology Regulation), as well as under the RPS set out in Article 5a of the Comitology Decision.

In accordance with the statement<sup>4</sup> made at the moment of the adoption of the Comitology Regulation that it would adapt all the RPS provisions in existing basic acts to the criteria laid down in the Treaty, the Commission started a preliminary screening exercise in 2012 which resulted in the adoption of the necessary alignment proposals in 2013.

By the end of 2012, 133 comitology committees had adopted their new individual rules of procedure on the basis of Standard Rules of procedure for comitology committees adopted on 8 July 2011<sup>5</sup>.

#### 1.2 Development of case law

In its judgment of 5 September 2012 (Case C-355/10, European Parliament v Council), the Court of Justice of the EU annulled Council Decision 2010/252/EU<sup>6</sup> relating to the

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<sup>1</sup> OJ L 55, 28.2.2011, p. 13.

<sup>2</sup> Report from the Commission on the working of committees during 2011, COM(2012)685 final.

<sup>3</sup> 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).

<sup>4</sup> This statement which was published in the Official Journal together with Regulation (EU) No 182/2011 (OJ L 55 of 28.2.2011, p. 19)

<sup>5</sup> OJ C 206, 12.7.2011, p. 11.

<sup>6</sup> Council Decision of 26 April 2010 supplementing the Schengen Borders Code as regards the surveillance of the sea external borders in the context of operational cooperation coordinated by the

surveillance of the sea external borders in the context of cooperation between Member States coordinated by FRONTEX that had been adopted in accordance with the regulatory procedure with scrutiny on the basis of Article 12(5) of Regulation 562/2006<sup>7</sup>. The Court found that the Decision introduced new essential elements to the basic act, namely provisions on border surveillance in the Schengen Borders Code (SBC).

In the Court's view, provisions dealing with interception measures (paragraph 2.4. of Part 1 of the Annex to the Decision), rescue and disembarkation (paragraphs 1.1. and 2.1. of Part II of the Annex to the Decision) require political choices to be made, and this falls within the responsibility of the EU legislature. In addition, the provisions on interception which confer powers on border guards such as stopping persons apprehended, seizing vessels and conducting apprehended to specific location, mean that the fundamental rights of the persons concerned may be interfered with to such an extent that the involvement of the EU legislature is required.

Consequently, the Court considered that "the adoption of such provisions goes beyond the scope of the additional measures within the meaning of Article 12(5) of the SBC and, in the context of the European Union's institutional system, is a matter for the legislature." Even though the Court recognised that the Decision contains also provisions governing the practical arrangements for carrying out border surveillance, it annulled the Decision in its entirety since it found that the rules in Parts I and II of the Annex are connected because they relate to the conduct of surveillance operations and rescue operations respectively.

## 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 Commission<sup>8</sup> 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 comitology committees on 31 December 2012 was calculated by sector of activity (see Table I). The figures for the previous year (on 31 December 2011) are also given for the purposes of comparison.

**TABLE I — TOTAL NUMBER OF COMMITTEES (2012)**

Policy sector	2012	2011
<b>Agriculture and Rural Development (AGRI)</b>	15	14
<b>Anti-fraud Office (OLAF)</b>	1	1
<b>Budget (BUDG)</b>	2	2
<b>Climate Action (CLIMA)</b>	4	4
<b>Communication (COMM)</b>	1	1

European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, OJ L 111, 4.5.2010, p. 20-26

<sup>7</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 105, 13.4.2006, p. 1.

<sup>8</sup> See for more details: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=faq.faq&aide=2>

Communications Networks, Content and Technology (CNECT)	6	7
Development and Cooperation – EuropeAid (DEVCO)	6	6
Economic and Financial Affairs (ECFIN)	1	1
Education and Culture (EAC)	7	7
Employment, Social Affairs and Inclusion (EMPL)	3	3
Energy (ENER)	16	15
Enlargement (ELARG)	4	4
Enterprise and Industry (ENTR)	30	31
Environment (ENV)	31	31
Health and Consumer (SANCO)	24	24
Home Affairs (HOME)	11	11
Humanitarian Aid and Civil Protection (ECHO)	2	2
Informatics (DIGIT)	1	1
Internal Market (MARKT)	14	13
Justice (JUST)	14	13
Maritime Affairs and Fisheries (MARE)	4	5
Mobility and Transport (MOVE)	31	29
Regional Policy (REGIO)	1	1
Research (RTD)	6	6
Secretariat-General (SG)	2*	2*
Service for foreign policy instruments (FPI)	4	4
Statistics (ESTAT)	7	8
Taxation and Customs Union (TAXUD)	11	11
Trade (TRADE)	11	11
<b>TOTAL:</b>	<b>270</b>	<b>268</b>

\* 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).

In 2012, 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). Because certain committees applied multiple procedures, they have been separated from committees operating under a single procedure.

**TABLE II — NUMBER OF COMMITTEES BY PROCEDURE (2012)**

	Type of procedure				TOTAL:
	Advisory	Examination	Regulatory with scrutiny	Operates under several procedures	
AGRI		12		3	15
BUDG	1	1			2
CLIMA				4	4
CNECT		2		4	6
COMM		1			1
DEVCO		5		1	6
DIGIT		1			1
EAC	1	2		4	7
ECFIN	1				1
ECHO		1		1	2
ELARG	1	3			4
EMPL			2	1	3
ENER	2	8	1	5	16
ENTR	7	4	4	15	30

ENV		5	4	22	31
ESTAT		2		5	7
FPI		4			4
HOME	1	4		6	11
JUST	3	1	4	6	14
MARE		4			4
MARKT		1	4	9	14
MOVE	3	6	3	19	31
OLAF			1		1
REGIO				1	1
RTD		5		1	6
SANCO	1	10	1	12	24
SG		2			2
TAXUD	1	9		1	11
TRADE	2	6		3	11
<b>TOTAL:</b>	<b>24</b>	<b>99</b>	<b>24</b>	<b>123</b>	<b>270</b>

\* 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*<sup>9</sup> used in 2012 also reflects the intensity of work in general, at sector level and also in individual committees (Table III).

**TABLE III — NUMBER OF MEETINGS AND WRITTEN PROCEDURES (2012)**

	Number of committees	Meetings		Written procedures	
		2012	2011	2012	2011
AGRI	15	134	142	3	3
BUDG	2	5	4	0	0
CLIMA	4	16	14	0	0
CNECT	6	26	20	7	20
COMM	1	1	1	2	4
DEVCO	6	24	17	28	55
DIGIT	1	2	2	0	0
EAC	7	14	18	53	52
ECFIN	1	1	0	0	0
ECHO	2	4	5	6	12
ELARG	4	5	8	22	12
EMPL	3	2	3	6	9
ENER	16	27	13	9	2
ENTR	30	51	56	25	32
ENV	31	46	41	14	16
ESTAT	7	12	14	6	6
FPI	4	7	4	7	3
HOME	11	31	24	40	27
JUST	14	7	6	18	15
MARE	4	11	9	8	11
MARKT	14	11	18	7	12
MOVE	31	50	53	22	12

<sup>9</sup> 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.

OLAF	1	3	3	0	1
REGIO	1	7	5	6	5
RTD	6	56	61	227	201
SANCO	24	144	146	354	314
SG	2	3*	6*	0	1
TAXUD	11	81	81	14	7
TRADE	11	15	15	5	6
<b>TOTAL:</b>	<b>270</b>	<b>796</b>	<b>789</b>	<b>889</b>	<b>838</b>

\* Including 3 meetings of the appeal committee.

## 2.2 Number of opinions and implementing acts/ measures

As with previous reports, this report provides overall figures on the formal *opinions* delivered by the committees and the subsequent *implementing acts/measures* adopted by the Commission<sup>10</sup>. These figures quantify the tangible ‘output’ of the committees (see [Table IV](#)).

**TABLE IV — NUMBER OF OPINIONS AND IMPLEMENTING ACTS/MEASURES ADOPTED (2012)**

	Opinions	Acts adopted	Measures adopted according to RPS
AGRI	250	231	2
BUDG	14	3	0
CLIMA	11	4	7
CNECT	36	37	1
COMM	3	3	0
DEVCO	173	153	0
DIGIT	1	1	0
EAC	96	79	0
ECFIN	1	0	0
ECHO	8	7	0
ELARG	60	57	0
EMPL	6	6	0
ENER	15	7	5
ENTR	48	25	22
ENV	58	27	30
ESTAT	18	3	8
FPI	12	12	0
HOME	39	39	0
JUST	13	13	1
MARE	29	28	0
MARKT	16	7	2
MOVE	55	37	26
OLAF	0	0	0
REGIO	22	22	0
RTD	237	233	0
SANCO	596	517	63
SG	6*	9	0
TAXUD	93	90	0
TRADE	7	7	0

<sup>10</sup> 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.

<b>TOTAL:</b>	<b>1 923</b>	<b>1 657</b>	<b>167</b>
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\* Including 6 opinions delivered by the appeal committee.

### 2.3 Meetings of the appeal committee

The appeal committee met 3 times during 2012, and discussed 6 draft implementing acts altogether (in the area of health and consumer policy) which were referred by the Commission. In all 6 cases, the appeal committee delivered no opinion and the Commission decided to adopt these 6 implementing acts.

### 2.4 Use of the Regulatory Procedure with Scrutiny (RPS)

As mentioned under 1, the RPS procedure 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 2012, 167 measures were adopted according to the RPS (see [Table IV](#)). The right of veto was not used. In 2011, by comparison, the Council made use of the right of veto on draft measures in two cases and the European Parliament did not use it at all.

**TABLE V — NUMBER OF MEASURES ADOPTED ACCORDING TO THE REGULATORY PROCEDURE WITH SCRUTINY (RPS) (2012)**

	Measures adopted according to RPS	EP opposed adoption of draft measures under RPS	Council opposed adoption of draft measures under RPS
AGRI	2	0	0
BUDG	0	0	0
CLIMA	7	0	0
CNECT	1	0	0
COMM	0	0	0
DEVCO	0	0	0
DIGIT	0	0	0
EAC	0	0	0
ECFIN	0	0	0
ECHO	0	0	0
ELARG	0	0	0
EMPL	0	0	0
ENER	5	0	0
ENTR	22	0	0
ENV	30	0	0
ESTAT	8	0	0
FPI	0	0	0
HOME	0	0	0
JUST	1	0	0
MARE	0	0	0
MARKT	2	0	0
MOVE	26	0	0
OLAF	0	0	0
REGIO	0	0	0
RTD	0	0	0
SANCO	63	0	0
SG	0	0	0
TAXUD	0	0	0

<b>TRADE</b>	0	0	0
<b>TOTAL:</b>	<b>167</b>	<b>0</b>	<b>0</b>

### **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 2012, broken down on the basis of the different Commission departments concerned.