



Council of the
European Union

Brussels, 27 October 2023
(OR. en)

14804/23

AG 127
INST 419
JUR 647

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	26 October 2023
To:	The Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 664 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the working of committees in 2022

Delegations will find attached document COM(2023) 664 final.

Encl.: COM(2023) 664 final



Brussels, 26.10.2023
COM(2023) 664 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the working of committees in 2022

{SWD(2023) 340 final}

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the working of committees in 2022

1. INTRODUCTION

In line 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 its annual report on the working of committees in 2022.

The report gives an overview of developments in 2022 in the 'comitology' system, which refers to the committees that the Commission consults on draft implementing acts. These committees are composed of representatives of the Member States, chaired by the Commission, and they follow different operating procedures depending on the relevant basic act (cf. Table II).

The report provides a summary of the committees' activities and it is accompanied by a **staff working document** containing detailed statistics on the work of the individual committees for each policy sector². It highlights the main changes and trends observed on an annual basis, presenting overall figures on meetings, written procedures, opinions delivered (i.e. positive, negative or no opinion) and acts adopted. It also gives an overview of cases referred to the appeal committee and of objections from the European Parliament and the Council under Article 11 of the Comitology Regulation. Information is also provided on the measures adopted under the regulatory procedure with scrutiny.

2. OVERVIEW OF DEVELOPMENTS IN THE COMITOLGY SYSTEM IN 2022

2.1. General developments

The comitology committees operated in 2022 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 set out in Article 5a of the Comitology Decision³.

With the gradual lifting of COVID-19 restrictions, it became possible to more regularly hold physical (or hybrid) meetings of comitology committees. All meetings, independent of the form in which they took place (in physical presence, remotely or in a hybrid format) are listed as meetings in the Comitology Register⁴ and the summary record specifies the form of the meeting.

¹ OJ L 55, 28.2.2011, p. 13.

² As covered by the Commission departments dealing with the respective policy areas.

³ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

⁴ <https://ec.europa.eu/transparency/comitology-register/screen/home>

The Interinstitutional Agreement on Better Law-Making of 13 April 2016⁵ recalls the need to align acts still referring to the regulatory procedure with scrutiny (RPS) to the legal framework introduced by the Treaty of Lisbon. Interinstitutional discussions continued in 2022 on aligning the remaining basic acts, on the basis of the Commission's 2016 proposals. As to the general alignment proposal⁶, after partial agreement reached in 2019, the remaining part covering 104 acts is still subject to further discussions as the co-legislators have so far not been able to agree on whether to align the RPS acts to delegated acts or to implementing acts. In the meantime, 25 acts have been either repealed by other legislative acts or had their RPS provisions aligned to either delegated or implementing acts in the context of legislative amendments made to the respective basic acts. These acts no longer need to be aligned in the context of this proposal.

On the specific alignment proposal concerning the area of justice⁷, agreement could be found in 2022. With its legislative resolution of 18 October 2022, the European Parliament endorsed the Council's position at first reading, without further amendments. The final text, which was published on 25 October⁸, concerns only the alignment⁹ of Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims, as the other two acts of the original proposal were repealed in the meantime.

As regards the Commission proposal of 14 February 2017¹⁰ aiming to amend the Comitology Regulation (EU) No 182/2011 concerning the appeal committee, and notably to address 'no opinion' situations in sensitive areas¹¹, no progress was possible in 2022 as the respective positions of the co-legislators remained far apart.

The Commission continued to make draft texts for important delegated and implementing acts public for a 4-week period, allowing stakeholders to submit comments. In 2022, 72 draft implementing acts were published for public feedback on the 'Have your say' website¹², which is slightly less than the 85 draft implementing acts that were published in 2021.

⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1), see point 27.

⁶ 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 final.

⁷ 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).

⁸ OJ L275, 25.10.2022, p30. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2022:275:TOC>

⁹ The only provision in the Regulation providing for the use of the regulatory procedure with scrutiny was amended to provide for the use of delegated acts, to amend the annexes to update the standard forms.

¹⁰ 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) 085 final).

¹¹ The Commission has proposed targeted amendments to the Comitology Regulation to avoid the occurrence of a situation where it is legally obliged to take an authorisation decision in the absence of a qualified majority of the Member States taking a position (either in favour or against) in the committee/appeal committee. Such a 'no opinion' situation is in the Commission's view particularly problematic when it concerns politically sensitive matters of direct impact on citizens and businesses, for instance in the field of health and safety of humans, animals or plants.

¹² https://ec.europa.eu/info/law/better-regulation/have-your-say_en

2.2. Case-law developments

In its judgment of 14 July 2022 in *Commission v Poland*¹³, the Court confirmed the judgment of the General Court in case T-699/17. The case was about the transitional period and provisions on qualified majority voting for the changeover from the Treaty of Nice to the Treaty of Lisbon. It concerns the application in time of Article 3(2) of Protocol 36 of the Treaty of Lisbon, which provides that, between 1 November 2014 and 31 March 2017, when an act is to be adopted by qualified majority, a Member State may request that the act be adopted in accordance with the qualified majority applicable before 31 October 2014 (i.e. the qualified majority that applied prior to the entry into force of the Treaty of Lisbon). The dispute concerned whether both the request from a Member State and the vote had to take place before 31 March 2017, or whether it was sufficient for the request from a Member State to be made before that date while the vote could take place afterwards. The General Court had ruled that it was sufficient that a Member State had made the request before 31 March 2017, and, upon appeal, the Court upheld the judgment of the General Court.

As regards the transparency of the work of comitology committees, in joined cases T-371/20 and T-554/20 (*Pollinis France v Commission*¹⁴), the General Court examined the refusal of the Commission to grant access to documents (under Regulation (EC) No 1049/2001¹⁵) that indicate the individual positions of the Member States expressed in the context of a comitology committee. In its judgment of 14 September 2022, the General Court dismissed the Commission's arguments that were based on the need to protect the ongoing decision-making process and annulled the respective Commission decisions refusing access. The Commission subsequently lodged an appeal against the judgment.

3. OVERVIEW OF ACTIVITIES

The figures indicated in the following sections are all based on the findings presented in detail in the accompanying staff working document.

3.1. Number of committees

This report focuses exclusively on comitology committees, which are set up by the legislator to assist the Commission in its exercise of the implementing powers that have been conferred upon it by basic legal acts. Other entities, in particular expert groups set up by the Commission itself, are not covered in this report.

Table I presents the number of comitology committees that existed during the period of 1 January to 31 December 2022, with the figures for the previous year added for comparison.

¹³ C-207/21 P, *European Commission v Republic of Poland*, ECLI:EU:C:2022:560.

¹⁴ T-371/20 and T-554/20, *Pollinis France v Commission*, ECLI:EU:T:2022:556.

¹⁵ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

TABLE I — TOTAL NUMBER OF COMMITTEES

Commission department	2021	2022
AGRI (Agriculture and Rural Development)	12	12
BUDG (Budget)	2	2
CLIMA (Climate Action)	5	5
CNECT (Communications Networks, Content and Technology)	11	15
DEFIS (Defence Industry and Space)	13	8
DIGIT (Informatics)	1	0
EAC (Education and Culture)	4	4
ECFIN (Economic and Financial Affairs)	2	2
ECHO (Humanitarian Aid and Civil Protection)	2	2
EMPL (Employment, Social Affairs and Inclusion)	6	5
ENER (Energy)	14	13
ENV (Environment)	27	26
ESTAT (Eurostat)	2	1
FISMA (Financial Stability, Financial Services and Capital Markets Union)	11	11
FPI (Service for Foreign Policy Instruments)	1	2
GROW (Internal Market, Industry, Entrepreneurship and SMEs)	39	38
HOME (Migration and Home Affairs)	20	18
INTPA (International Partnerships)	3	3
JUST (Justice and Consumers)	28	24
MARE (Maritime Affairs and Fisheries)	3	3
MOVE (Mobility and Transport)	33	31
NEAR (Neighbourhood and Enlargement Negotiations)	3	2
OLAF (European Anti-Fraud Office)	1	1
REFORM (Structural Reform Support)	2	1
REGIO (Regional and Urban Policy)	0	2
RTD (Research and Innovation)	31	17
SANTE (Health and Food Safety)	33	33
SG (Secretariat-General) *	3	3
TAXUD (Taxation and Customs Union)	28	26
TRADE (Trade)	13	12
TOTAL:	353	322

* Including the appeal committee ¹⁶

In 2022, there were **322 comitology committees** that existed during the year, including all committee configurations¹⁷. This represents a small decrease in the number of committees as compared to 2021 (when there were 353 comitology committees). This was mainly due to the abolition of a number of ‘old’ committees that had served under the previous generation of Multiannual Financial Framework (MFF) programmes and funds¹⁸. As new legislation entering into force in 2022 has created new committees in only a few cases, the number of comitology committees decreased from 2021 and went back to the levels recorded in the years before 2021¹⁹.

¹⁶ The appeal committee is registered in the Comitology Register as a committee under the responsibility of the Secretariat-General. In practice, however, it is managed by the departments concerned.

¹⁷ In a few basic acts the legislator has provided for specific configurations of the committee.

¹⁸ These were phased out during 2021, in parallel to the emergence of ‘new’ committees created under the new generation of MFF programmes and funds (2021-2027).

¹⁹ 2019: 318, 2020: 320

TABLE II — NUMBER OF COMMITTEES BY PROCEDURE

Commission department	Type of procedure				TOTAL:
	Advisory	Examination	Regulatory with scrutiny	Multiple procedures	
AGRI	0	8	0	4	12
BUDG	0	1	0	1	2
CLIMA	0	1	0	4	5
CNECT	1	7	0	7	15
DEFIS	0	1	0	7	8
DIGIT	0	0	0	0	0
EAC	0	3	0	1	4
ECFIN	0	1	0	1	2
ECHO	0	2	0	0	2
EMPL	1	1	1	2	5
ENER	2	7	0	4	13
ENV	0	12	1	13	26
ESTAT	0	0	0	1	1
FISMA	0	5	2	4	11
FPI	0	2	0	0	2
GROW	2	11	2	23	38
HOME	1	15	0	2	18
INTPA	0	3	0	0	3
JUST	7	11	2	4	24
MARE	0	2	0	1	3
MOVE	3	13	1	14	31
NEAR	0	2	0	0	2
OLAF	0	1	0	0	1
REFORM	1	0	0	0	1
REGIO	0	0	0	2	2
RTD	0	3	0	14	17
SANTE	0	12	0	21	33
SG*	0	3	0	0	3
TAXUD	0	10	0	16	26
TRADE	3	4	0	5	12
TOTAL:	21	141	9	151	322

* Including the appeal committee

Table II shows a breakdown of the committees in 2022 by type of procedure under which they operated (i.e. advisory procedure, examination procedure, regulatory procedure with scrutiny). Committees with multiple procedures have been separated from those operating under a single procedure.

3.2. Number of meetings and written procedures

The intensity of committees' activity is primarily defined by the number of committee meetings and the number of written procedures²⁰. These are presented in the following Table III.

²⁰ Committee voting can take place at a regular committee meeting or, in duly justified cases, by written procedure, in line with Article 3(5) of the Comitology Regulation.

TABLE III — NUMBER OF MEETINGS AND WRITTEN PROCEDURES

Commission department	Number of committees	Meetings		Written procedures	
		2021	2022	2021	2022
AGRI	12	121	100	104	52
BUDG	2	6	4	2	0
CLIMA	5	5	5	8	3
CNECT	15	13	15	21	30
DEFIS	8	36	46	12	7
DIGIT	0	0	0	0	0
EAC	4	8	11	12	17
ECFIN	2	2	14	0	0
ECHO	2	8	7	8	12
EMPL	5	0	0	0	0
ENER	13	10	18	0	8
ENV	26	24	23	20	10
ESTAT	1	3	3	16	7
FISMA	11	14	10	17	23
FPI	2	3	9	0	6
GROW	38	33	30	42	78
HOME	18	41	49	38	60
INTPA	3	19	18	168	14
JUST	24	30	21	6	6
MARE	3	4	3	16	10
MOVE	31	61	40	37	20
NEAR	2	7	19	41	48
OLAF	1	0	0	0	0
REFORM	1	0	1	0	2
REGIO	2	1	3	7	3
RTD	17	41	62	148	355
SANTE	33	93	95	634	813
SG*	3	6	12	10	6
TAXUD	26	39	31	23	36
TRADE	12	18	24	70	49
TOTAL:	322	646	673	1476	1675

* Including meetings/written procedures of the appeal committee

There were **673 meetings** in 2022, which is slightly more than in 2021 (646), with **1675 written procedures**, which is also higher than the year before (1476).

3.3. Number of opinions and implementing acts

This report also gives an indication of the tangible output of the committees, which is another important indicator of the level of activity. Table IV presents overall figures on the formal opinions delivered by the committees and the subsequent implementing acts adopted by the Commission²¹, also flagging the cases where either the European Parliament or the Council have exercised their right of scrutiny under Article 11 of the Comitology Regulation.

²¹ The number of opinions and implementing acts/measures in any given year can differ; the reasons for this are explained in the introduction to the accompanying staff working document.

TABLE IV — NUMBER OF OPINIONS AND IMPLEMENTING ACTS ADOPTED²²

Commission department	Opinions ²³		Implementing acts adopted		Parliament resolutions /Council decisions (Art. 11)
	2021	2022	2021	2022	2022
AGRI	101	103	100	100	0
BUDG	2	0	1	0	0
CLIMA	9	4	9	5	0
CNECT	43	31	41	30	0
DEFIS	19	12	14	16	0
DIGIT	0	0	0	0	0
EAC	8	21	8	24	0
ECFIN	1	17	0	17	0
ECHO	8	13	9	13	0
EMPL	0	0	0	0	0
ENER	3	30	0	21	0
ENV	24	25	15	22	0
ESTAT	16	10	15	9	0
FISMA	22	25	18	22	0
FPI	0	5	0	4	0
GROW	62	85	31	73	0
HOME	67	58	36	49	0
INTPA	168	106	167	104	0
JUST	9	13	8	9	0
MARE	16	13	9	19	0
MOVE	64	48	61	55	0
NEAR	40	110	40	108	0
OLAF	0	0	0	0	0
REFORM	0	2	0	1	0
REGIO	7	3	5	5	0
RTD	149	354	110	333	0
SANTE	818	819	775	907	10 (European Parliament)
SG*	13	13	2	0	0
TAXUD	50	43	47	40	0
TRADE	76	85	71	86	0
TOTAL:	1782	2048	1592	2072	10

*Including opinions delivered by the appeal committee. To avoid double-counting, adopted implementing acts passing through the appeal committee are counted towards the first-level committees in the respective policy areas. Detailed information on the work of the appeal committee is provided in Table V.

The committees delivered **2048 opinions²⁴** in 2022, which is an increase compared to 2021 (1782), indicating a higher workload. Similarly, the number of **2072 implementing acts** adopted following a committee procedure was also considerably higher than in the previous year (1592).

²² As regards adopted implementing acts, the indication of Commission services (policy areas) means that the acts in question were prepared (discussed and/or voted on) in a committee managed by this Commission service; in some cases the actual adoption of the act was formally ensured by another Commission service.

²³ A vote resulting in ‘no opinion’ is counted in the total number of opinions as this is one of the possible outcomes of the vote in the committee.

²⁴ The overwhelming majority of the votes was positive, whereas a ‘no opinion’ was delivered in 33 cases (excluding those at the level of the appeal committee). There were no instances of a negative vote.

The European Parliament and the Council have a right of scrutiny under Article 11 of the Comitology Regulation. In 2022, the European Parliament adopted 10 resolutions on the basis of Article 11 of the Comitology Regulation, all of which concerned acts of DG SANTE. The Council did not exercise its right to oppose a draft measure under this provision in 2022.

3.4. Meetings of the appeal committee

As indicated in Table V below, the appeal committee met 11 times during 2022, and discussed 13 draft implementing acts which the Commission referred to it. Using written consultations for 6 draft acts and voting in a meeting on 7, it delivered a ‘no opinion’ in all 13 cases²⁵. The Commission adopted all 13 implementing acts following the appeal committee vote, but 2 of these adoptions fell into 2023.

TABLE V — ACTIVITY OF THE APPEAL COMMITTEE

Commission department	Number of meetings/written consultations of the appeal committee		Number of opinions ²⁶ of the appeal committee		Number of acts adopted following an opinion of the appeal committee	
	2021	2022	2021	2022	2021	2022
MOVE	1/0	0/0	1 (0)	0 (0)	1	0
SANTE	4 /10	10/6	10 (10)	12 (12)	10	10
TRADE	1/ 0	1/0	1 (1)	1 (1)	1	1
TOTAL:	6/10	11/6	12	13 (13)	12	11

3.5. Use of the regulatory procedure with scrutiny

The Comitology Regulation maintained the effects of the regulatory procedure with scrutiny for the purposes of existing basic acts referring to it²⁷. This procedure can no longer be introduced into new legislation, but it still appears in many existing basic acts and will continue to apply under those acts until the respective empowerments have been aligned to empowerments for either delegated or implementing acts (as indicated in Section 2.1).

In 2022, 68 measures were adopted according to the regulatory procedure with scrutiny (see Table VI below), which is identical to the figure in 2021 (68).

The right to oppose acts under the regulatory procedure with scrutiny was not used in 2022 by either of the co-legislators. For comparison, in 2021, the European Parliament opposed twice²⁸, whereas the Council did not use this right at all.

²⁵ Further details are available in the accompanying staff working document.
²⁶ The term ‘opinion’ also includes the scenario where the formal outcome is a ‘no opinion’ meaning that there is no required majority in either sense. The number of ‘no opinions’ is indicated in parentheses.
²⁷ Article 12, second paragraph of the Comitology Regulation.
²⁸ See details in SWD(2022)279, p.102.

TABLE VI — NUMBER OF MEASURES ADOPTED ACCORDING TO THE REGULATORY PROCEDURE WITH SCRUTINY

Commission department	Regulatory procedure with scrutiny - measures adopted	European Parliament opposed adoption of draft measures	Council opposed adoption of draft measures
AGRI	0	0	0
BUDG	0	0	0
CLIMA	0	0	0
CNECT	0	0	0
DEFIS	0	0	0
DIGIT	0	0	0
EAC	0	0	0
ECFIN	0	0	0
ECHO	0	0	0
EMPL	0	0	0
ENER	0	0	0
ENV	2	0	0
ESTAT	2	0	0
FISMA	2	0	0
FPI	0	0	0
GROW	7	0	0
HOME	0	0	0
INTPA	0	0	0
JUST	0	0	0
MARE	0	0	0
MOVE	0	0	0
NEAR	0	0	0
OLAF	0	0	0
REGIO	0	0	0
REFORM	0	0	0
RTD	0	0	0
SANTE	55	0	0
SG	0	0	0
TAXUD	0	0	0
TRADE	0	0	0
TOTAL:	68	0	0

4. CONCLUSION

The activity of committees continued in 2022 with increased intensity. Overall there were 322 committees at work, which held 673 meetings, carried out 1675 written procedures and delivered 2048 opinions. Enabling Member States to exercise their control powers in accordance with the Comitology Regulation, the committees provide valuable assistance to the Commission in exercising the implementing powers conferred on it by the co-legislators.

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