

CONTEXT

In April 2017, the European Commission published a proposal that aimed to change the highly technical (and little known) comitology decision-making process, notably to ensure that the responsibility for unpopular decisions - such as the authorisation of GMOs - would no longer lie solely on its shoulders. However, this proposal is currently stalled due to a lack of appetite in the Council for reform. The current comitology system - by which experts and government representatives gather to implement EU laws by deciding on (supposedly) purely technical issues - turns abstentions from Member States into an absolute power for the European Commission. Essentially, whenever the EU governments cannot agree to something, the Commission is then tasked with taking the final decision. This has led, for example, to the authorisation of 34 different types of genetically modified organisms in Europe, despite the lack of consensus between EU governments and the multiple objections raised by the European Parliament. This report examines the current functioning of comitology and highlights its main weaknesses in terms of democratic decision-making and public legitimacy, with a view to feeding into the future reform of the process in the next term. The main points highlighted in the report are summarised below.

The report looks at the challenges raised by the obscure decision-making process known as 'comitology', and highlights how expertise is used as a tool to influence decision-making on crucial issues, out of public view, with potentially devastating consequences for democracy.

The political use of expertise
in EU decision-making:

The case of comitology

Summary of report by

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May 2019

The idea behind comitology - indeed, its justifying force - is that a clear distinction can or should be made between the political legislative process and the technical process by which new EU laws come to be applied in practice. The former is negotiated by the co-legislators (Parliament and Council), while the latter is entrusted to experts (from the Commission and the Member States) through the comitology process.

However, as the report shows, the distinction between the political and the technical is never clear cut, and sometimes, the very decision that an issue is to be dealt with at technical level is political in and of itself. What's more, several examples are identified in the report in which the technical decisions made actually run counter to - or completely undermine - the original intentions of the legislators.

Legitimation
via expertise and
technicalisation
questioned

Comitology is
political, not
technical,
because of:

The way in which it is defined: Since there is no clear definition of what should be considered technical and what is to be determined at political level, it is often the case that the decision on which topics should be dealt with - and how - are a result of political bargaining between the Commission, Parliament and Council. According to the report, there are even cases in which difficult decisions are delegated to the technical level in order to avoid a political stalemate, which raises the stakes significantly.

The scope for interpretation and wide margins of manoeuvre: The report shows that comitology is actually a space for negotiations, in which a balancing of different interests, principles and values takes place despite its supposedly technical nature. National administrations and interest groups or lobbyists take advantage of the comitology process to defend their own interests, and scientific evidence is often displaced by political alliances and majority-building.

The instrumentalisation of expertise: There are clear inequalities between national governments when it comes to their ability to influence the comitology process, and between the private sector, which is over-represented in terms of the number of seats it holds at the table - and NGOs or trade unions which lack the resources to properly engage. One example highlighted in the report is the presence of the car industry during the process supposed to apply EU legislation limiting pollution emissions from vehicles. When coupled with the fact that some governments actively defended their national car industries, this led to the introduction of loopholes that allowed car manufacturers to evade the emissions limits decided by the legislators - more than doubling them in practice.

When important decisions are shifted to the realm of expertise, they escape democratic oversight and limit the possibility for public debate. For its part, the European Parliament is essentially excluded from comitology decision-making, as it is supposed to be a space for technicalities, not for politics. The closed nature of the deliberations means that it is difficult for MEPs to access information and thus to exercise their right to scrutiny effectively.

The report concludes that the way in which comitology currently works is fuelling a two-fold crisis of confidence. The examples of important legislation being undermined through obscure procedures - which are the few examples that have brought comitology onto the European public's radar in some way - will deepen the sense of defiance not only towards the decisions taken but also towards the way those decisions are adopted and will ultimately foster mistrust in the political system itself. This is why it is crucial to improve the transparency and democracy of the comitology process in the next legislative term.

What does
this mean for
democratic
decision-making
and legitimacy?