

WRITTEN QUESTION E-3068/04
by Bogdan Pęk (IND/DEM)
to the Commission

Subject: Legality of the Commission operating after 31 October 2004

Article 1(2) of the Treaty of Accession states that the conditions of admission and the adjustments to the Treaties on which the Union is founded, entailed by such admission, are set out in the Act laying down the conditions for accession of the new Member States that is annexed to the Treaty and forms an integral part thereof.

Article 45(2)(b) of that Act stipulates that the term of office of the Commission headed by Romano Prodi expires on 31 October 2004. This applies to both the Commission Members appointed as from the date of accession of the new Member States and those appointed as from 23 January 2000.

The Treaty makes no provision for any transitional arrangements in this connection, particularly as regards a possible period during which there is legally no Commission in office.

1. Given the above situation, does the group of people making up the former Prodi Commission still constitute an EU body, and if so, which Treaty provision forms the basis for its activities and lays down its term of office and the scope of its powers?
2. Given that its term of office expired on 31 October 2004, is the Commission empowered to take any decisions, particularly on matters governed by the Treaties? If so, on what legal basis?
3. Is the continued operation of a 30-Member Commission after 31 October 2004 not in clear breach of Article 45(1) of the aforementioned Act, and on what basis are its Members remunerated?
4. Can the Commission be given renewed full powers to act on the basis of informal agreements, declarations and the like, given that the legal provisions governing the Commission's composition and term of office are provisions of international law deriving from treaties that need to be adopted and ratified, and that any changes thereto must be made following the same procedure as that when they were first laid down?