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### Council of the European Union: The Main Decision Making Body of the EU

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This is the third part in a series which covers the structure and operations of the EU institutions. In the first of the series (autumn 2005) Helicia Herman introduced the European Commission (EC). The second part (winter 2005) described the composition, functioning and main role of the European Parliament. In this third instalment, the structure, role and operation of the Council of the European Union are explained by our EU Editor for European Affairs, Sonja Planitzer. Representations on the Council, and the decision making processes are presented. The European Council, and the Councils of Europe, and the European Union are carefully distinguished. Evolutions in the EU decision making processes are presented, and finally our EU Correspondent, Rory Watson describes some of the current decision making activities related to healthcare. The final instalment in the series will be published in the summer issue 2006, and will cover the Court of Justice.

#### The Key-Role of the Council of the EU

The Council of the European Union was set up by the founding Treaties in the 1950s, similar to the European Parliament. The Council of the EU is the main decisionmaking body. It represents the member states, and its meetings are attended by one minister from each of the EU's national governments.

The Council of the EU has the main role of agreeing legislation, although in recent years this has been shared more and more with the Parliament under the codecision procedure. The European Commission makes proposals, for which in principle, the Council acts as legislator. The Council may modify the proposals before adopting them.

The Council consists of one government minister from each member state. Although there is just one Council, different groups of ministers meet depending on what topic is being discussed at the weekly meeting. Each minister is empowered to commit his or her government and is accountable to their own national parliaments for the decisions in the Council.

#### Council Configurations

Depending on the matters under discussion, the Council meets in nine different configurations within which each country is represented by the minister responsible for that subject. If the Council is to discuss environmental issues, for example, the meeting will be attended by the Environment Minister from each country and is called the "Environment Council". The nine Council configurations are:

- M General Affairs and External Relations
- M Economic and Financial Affairs (ECOFIN)
- M Justice and Home Affairs (JHA)
- M Employment, Social Policy, Health and Consumer Affairs
- M Competitiveness (Internal Market, Industry and Research)
- M Transport, Telecommunications and Energy
- M Agriculture and Fisheries
- M Environment
- M Education, Youth and Culture

Each minister in the Council is empowered to commit his or her government. This means that the minister's signature represents the signature of the whole government. Moreover, each minister in the Council is answerable to his or her national parliament and to the citizens who the parliament represents, which ensures the democratic legitimacy of the Council's decisions.

## **Responsibilities of the Council of the EU**

The Council has the following six key responsibilities

M To pass European laws. As mentioned above, the Council shares legislation jointly with the European Parliament in many fields.

M To co-ordinate the broad economic policies of the member states. This co-ordination is carried out by the economics and finance ministers, who collectively form the ECOFIN Council.

M To conclude international agreements between the EU and one or more states or international organizations.

M To approve the EU's budget, jointly with the European Parliament.

M To develop the EU's Common Foreign and Security Policy (CFSP).

M To co-ordinate cooperation between the national courts and police forces in criminal matters.

Most of these responsibilities relate to the "Community" domain, for example, areas of action for which the member states have decided to pool their sovereignty and delegate decision-making powers to the EU institutions. This domain is the "first pillar" of the European Union. However, the last two responsibilities relate largely to areas in which the member states have not delegated their powers, but are simply working together. This is called "intergovernmental cooperation" and covers the second and third "pillars" of the European Union.

## **European Council**

Article 4 of the Treaty on European Union says: "The European Council shall provide the Union with necessary impetus for its development and shall define the general political guidelines thereof."

The European Council brings together the heads of state or government of the European Union and the president of the Commission. It defines the general political guidelines of the European Union. The European Council meets at least twice yearly (in practice, four times yearly, and sometimes, if necessary more often), usually in Brussels.

The European Council provides the impetus for the major political issues relating to European integration: amendments to the Treaties and changes to the institutions, declarations on external relations in the context of the common foreign and security etc; its guidelines and declarations, however, are not legally binding. To be put into effect, such political guidelines must undergo the routine procedures by the European Parliament and the Council of the European Union, followed where necessary by implementation at national level.

## **Procedures of the Council of the EU**

### **Coreper**

In Brussels, each EU member state has a permanent representation to the European Community, representing and defending its national interest at EU level. The head of each representation is, in effect, his or her country's ambassador to the EU.

These ambassadors (also known as "permanent representatives") meet weekly within the Permanent Representatives Committees – the "COREPER". The role of this committee is to prepare the work of the Council, with the exception of most agricultural issues, which are handled by the Special Committee on Agriculture. "COREPER" is assisted by a number of working groups, made up of officials from the national administrations.

### **Presidency of the Council**

The "Presidency of the Council" rotates every six months. In other words, each EU country in turn takes charge of the Council agenda and chairs all the meetings for a six month period, promoting legislative and political decisions and brokering compromises between the member states. Currently, Austria chairs the EU (for more information see page 51); in July Finland will take over the EU Presidency until December 2006.

### **General Secretariat**

The Presidency is assisted by the General Secretariat, which prepares and ensures the smooth functioning of the Council's work at all levels.

In 2004, Minister Javier Solana was re-appointed Secretary General of the Council. He is also High Representative for the Common Foreign and Security Policy (CFSP), and in this capacity he helps coordinate the EU's action on the world stage. Under the new constitutional treaty, the High Representative would be replaced by an EU Foreign Affairs Minister. The Secretary General is assisted by a Deputy Secretary- General, in charge of managing the General Secretariat.

## **The Power of Legislation**

The power to legislate is shared between the Council and the European Parliament. In most situations, European laws are made by a co-decision procedure. This means that the Council and the Parliament jointly adopt proposals for legislation originating from the European Commission. The Council and the Parliament may make amendments to the legislation under this procedure. However, there are certain important areas, for example, tax legislation, where the Parliament may only give an opinion on whether a proposed piece of legislation can become law.

The Council only acts, as a rule, on a proposal from the Commission, and the Commission normally has responsibility for ensuring that EU legislation, once adopted, is correctly applied.

## **EU Decision Making Procedures**

In general it is the European Commission that proposes new legislation, but it is the Council and Parliament that pass the laws. Other institutions and bodies also have roles to play.

The rules and procedures for EU decision making are laid down in the Treaties. Every proposal for a new European law is based on a specific treaty article, referred to as the "legal basis" of the proposal. This determines which legislative procedure must be followed. The three main procedures are "consultations", "assent" and "co-decision".

### **Consultation**

Under this procedure, the Council consults Parliament as well as the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR). The Parliament has three options: 1) to approve the Commission proposal 2) to reject it or 3) to ask for amendments. If the Parliament asks for amendments, the Commission will consider all the changes Parliament suggests. If it accepts any of these suggestions it sends the Council an amended proposal. The Council examines the amended proposal and either adopts it or amends it further. In this procedure, as in all others, if the Council amends a Commission proposal, it must do so unanimously.

### **Assent**

This procedure means that the Council has to obtain the European Parliament's assent before certain very important decisions are taken. In this case the Parliament cannot amend a proposal – it must either accept or reject it. Acceptance ("assent") requires an absolute majority of the vote cast.

### **Co-Decision**

This is a procedure now used for most EU law making. In the codecision procedure, Parliament does not merely give its opinion: it shares legislative power equally with the Council. If Council and Parliament cannot agree on a piece of proposed legislation, it is put before a conciliation committee, composed of equal numbers of Council and Parliament representatives. Once this committee has reached an agreement, the text is sent once again to Parliament and the Council, so that they can finally adopt it as law.

## **Council Decision Making Procedures**

There are different ways that the Council makes its decisions. A unanimous decision is required in important areas, such as common foreign and security policies, and taxation. Each member state has a vote in these areas.

In other fields, the Council makes its decisions by Qualified Majority Voting. Each member state has a specific number of votes (see below), which is related to the size of its population. A qualified majority will be reached, if a majority of member states approve, and if a minimum of 72.3 % of the votes are cast in favour.

Since 1st November 2004 the total number of votes has been 321. The numbers of votes each country can cast are shown in table 1.

## **Modernising the System with the Constitution**

The EU is growing bigger and bigger. Although the decision making system has evolved over half a century, it was originally designed for a community of just six nations. The EU now has 25 member states and its membership will increase further in the years ahead. The decision making system, therefore, needs simplifying and streamlining. To avoid paralysis, most decisions will have to be taken by "qualified majority voting" rather than requiring every single country to agree.

The proposed Constitution agreed by the European Council in 2004 tackles these questions head on. It spells out much more clearly than in previous treaties what the European Union is and where it is going. It lays down the new rules for more streamlined decision making. It is due to come into force in 2006, but first it has to be approved by all 25 member countries – in some cases by referendum. Meanwhile the situation is at a "standstill", with some member states having approved the Constitution – with referendums in some countries, such as in France and the Netherlands – and some member states returning a "negative" response. There is now what some politicians are describing as a period of reflection.

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