Document: The EU Co-decision Procedure

Title: The EU Co-decision Procedure

Author: European Commission

Purpose: Information

Distribution: AEMH Member Delegations

Date: 24 June 2008
THE CODECISION PROCEDURE

The co-decision-making system and is set to become the legislative procedure par excellence following the adoption of the draft European Constitution. It is based on the principle of parity and means that neither institution (European Parliament or Council) may adopt legislation without the other's assent.

Over the last five years (legislative period 1999-2004) and since the entry into force of the Amsterdam Treaty, 418 codecision procedures have been successfully completed (apart from two cases).

This site contains references to the provisions of the Treaty and to the legal bases of the procedure. In this regard, it is important to bear in mind the existence of the Joint Declaration on practical arrangements for the new co-decision procedure, which was adopted by the three institutions when the Amsterdam Treaty came into force. It serves as a practical reference framework for each institution as regards the role it has to play at the various stages of the procedure. Declaration n°34 annexed to the Treaty of Amsterdam calls on the institutions to make every effort to ensure that the codecision procedure operates as expeditiously as possible and in particular that in no case should the actual period between the second reading by the European Parliament and the outcome of the Conciliation Committee exceed nine months.

Attention should also be drawn to the interinstitutional agreement on "better lawmaking", which was signed by the European Parliament, the Council and the Commission on 16 December 2003. The agreement sets out best practice and lays down new objectives and commitments, including:

• the improvement of interinstitutional coordination and transparency ;
• the establishment of a sound framework for "alternative instruments" ;
• the increased used of impact analyses in the Community decision-making process ;
• the desire to establish a mandatory time limit for transposing directives into national law.

You can also refer to a flow chart, which summarises the various steps mentioned in Article 251 of the Treaty.
GLOSSARY

"A" item: The Council’s rules of procedure lay down that “the provisional agenda shall be divided into Part A and Part B. Items for which approval by the Council is possible without discussion shall be included in Part A, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes”. An “A” item is therefore a dossier on which an agreement already exists, enabling it to be formally adopted without debate. The items in part “B” of the agenda are scheduled for debate. Similarly, the Coreper agenda is divided into a part “I” (items scheduled without debate) and a part “II” (items scheduled for debate). In addition, the deliberations and decisions of the Council itself under the co-decision procedure are public.

Absolute majority (in the European Parliament): Majority of the members who comprise Parliament. In its present configuration (with 732 MEPs), the threshold for an absolute majority is 367 votes. Under the co-decision procedure, an absolute majority is necessary in plenary session when voting on a second reading in order to reject the Council’s common position or to adopt amendments.

COREPER: Article 207 of the EC Treaty lays down that “a committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. The Committee may adopt procedural decisions in cases provided for in the Council’s Rules of Procedure”. Coreper plays a pivotal role in the Community decision-making system, where it is a forum for both dialogue (between the permanent representatives and between each of them and their capital) and political control (orientation and supervision of the work of the groups of experts). It meets each week and is in fact divided into two parts:

- Coreper I, comprising the Deputy Permanent Representatives, prepares the ground for the following Council configurations:
  - Employment, Social Policy, Health and Consumer Affairs;
  - Competitiveness (internal market, industry, research and tourism);
  - Transport, Telecommunications and Energy;
  - Agriculture and Fisheries;
  - Environment;
  - Education, Youth and Culture (including audiovisual);
- Coreper II, comprising the Permanent Representatives, prepares for the other configurations:
  - General Affairs and External Relations (including European security and defence policy and development cooperation);
  - Economic and Financial Affairs (including the budget);
  - Justice and Home Affairs (including civil protection).

Coreper monitors and coordinates the work of some 250 committees and working parties consisting of officials from the Member States who prepare the dossiers at technical level.
With regard to the co-decision procedure, Coreper, and particularly its President, is Parliament’s main partner.

**General approach (in the Council of Ministers):** This is an informal agreement within the Council, sometimes by qualified majority, before Parliament has given its opinion on first reading. Such an agreement speeds up work, or even facilitates an agreement on first reading. On the other hand, the Commission gives no definitive undertaking to the Council owing to the absence of an opinion from Parliament. Once the Council has received Parliament’s opinion, the Council prepares a political agreement.

**Inter-institutional relations group (GRI) (French acronym):** A body within the Commission with the task of coordinating political, legislative and administrative relations with the other institutions and in particular with the European Parliament and the Council. The GRI brings together members from all the Commission cabinets tasked with monitoring inter-institutional affairs. The GRI meets, in principle, once a week. It handles, more specifically, dossiers dealt with by the Council and the European Parliament which are sensitive from an institutional point of view, some of which come under the co-decision procedure.

**Political agreement:** (in the context of preparing the Council’s common position) agreement expressed in principle by the Council, following a vote where appropriate. This agreement contains the guidelines for the future common position and the details are finalised, particularly in terms of the recitals, by the working party, verified by lawyer-linguists, then formally adopted as a common position by the Council at a subsequent session, mostly without a debate. On average, the political agreement comes 2/3 months prior to formal adoption of the common position.

**Qualified majority (in the Council of Ministers):** Since 1 November 2004, the weighting for the number of votes attributed to each Member State is as follows: the threshold for a qualified majority is set at 232 votes out of 321 (72.27 %). The decision also requires a favourable vote from the majority of Member States (i.e. at least 13 Member States). In addition, a Member State may request verification that the qualified majority includes at least 62% of the Union’s total population. Should this not be the case, the decision will not be adopted. In successive waves of institutional reform, qualified majority voting has replaced unanimity, which is less effective for developing an operational Community policy (risk of veto).

**Rapporteur:** The MEP responsible for preparing a report.

**Report (Parliament):** Under the co-decision procedure, a Parliamentary report prepares Parliament’s position. Drawn up by an MEP chosen from within the competent Parliamentary committee (the “rapporteur”), it basically contains suggested amendments and a statement of reasons explaining the proposed amendments.

**Shadow rapporteurs:** MEPs who monitor a dossier for political groups other than that of the rapporteur.
**Simple majority (in the European Parliament):** Majority of the members taking part in the vote. Under the co-decision procedure, a simple majority is required when voting in Parliamentary committee, in plenary on a first reading and, on a second reading, to approve the Council's common position and in order to draw up the act in accordance with the joint draft prepared by the Conciliation Committee.

**Statement of reasons:** text accompanying an act or preparatory act to explain the reasoning behind it. Such texts consist of Commission proposals, opinions of the European Parliament and common positions of the Council.

**Unanimity (Council):** Unanimity denotes the obligation to reach a consensus among all the Member States meeting within the Council so that a proposal can be adopted. According to Article 205, abstention "shall not prevent the adoption by the Council of acts which require unanimity". Since the Single European Act of 1987, the scope for unanimity has been increasingly limited. Under the co-decision procedure, the Treaty makes provision for unanimity in three cases (social security for migrant workers, recognition of diplomas if amendment of national legislation is required, and incentive measures in the field of culture). In addition, in other matters the Council must decide unanimously if it wishes to adopt a different position to that of the Commission.