

Handout N^o. 2

Council

“Council of the European Union”, “European Council” (**not** Council of Europe), Representatives of the Member States convened in the Council

1. Appointment

- one representative of each member state
- at ministerial level, authorised to commit the government
- through the domestic system
- accountability through the national system

2. Composition

- Fluctuating membership depending on topic of discussion
- Different ‘formulations’ → lack of coherency?
- Heads of State in matters of EC law and political co-operation (→ Art. 4 TEU)

3. Functions

- to ensure that the objectives of the Treaty are attained
- to co-ordinate the general economic policies
- to take decisions
- to confer powers on the Commission for implementation
- compliance with this requirement and satisfaction of domestic obligations?
- final power of decision in the legislation process
albeit limited:
 - right of initiative rests with Commission
 - involvement of other institutions in certain areas requires unanimity
 - power sharing with Parliament since TEU
- Art. 300, 310 EC
- Art. 230, 232 EC
- Art. 258, 263, 247 EC
- Art. 272 EC
- Art. 13 III, 14, 15 EU note: Art. 23 I EU (unanimity); Art. 34 II, 30 II (Art. 34 II: unanimity)

4. Unanimity

- Art. 47 II 2, 94 I, 95 II, 250 I, 308 EC

5. Qualified majority voting (qmv)

- majority of cases, e.g. Art. 37 II(3), Art. 47 I → 251/252 EC
- weighing according to Art. 205 II 1
 - majority of members
 - minimum of 62 of 87 votes (as of 01.01.2005: majority of members, minimum 170 votes, 62% of the population of the EU (on request); decision not on an initiative by the Commission: 2/3 majority of members)

6. simple majority: exception, Art. 207 III
7. Compromise of Luxembourg, 'empty chair' policy of France 1965
8. Compromise of Ioannina: blocking minority in the light of the 1995 accession
9. COREPER

Commission

1. Appointment

- Commissioners nominated and agreed (qmv) by member states
- on the grounds of their general competence and independence
- Nice Protocol: once there are 27 Commissioners the Council will determine the number of Commissioners and the selection mechanism
- office term: five years, renewable

2. Composition

- currently 20 members
- performance of duties without instructions from any government or other body
- divided into directorates-general (Commissioner may have a 'portfolio' with more than one directorate-general) → assignment in accordance to portfolio's prestige → prestige takes priority over the interests of the Community?

3. Functions

- "Motor of integration"
- "watchdog"
- Own power of decision: competition policy, harmonisation (Art. 95 I EC)
- administration of Community's structural funds (European Agricultural Guidance and Guarantee Fund, Guidance Section, Financial Instrument for Fisheries Guidance, Regional Development Fund and European Social Fund), Cohesion Fund
- comitology
 - procedure I: no limitation on Commission's power to pass delegated legislation (draft to advisory committee, Commission not bound by vote)
 - procedure II: Council may get involved if measures are not in accordance with opinion of the "management" committee (Council acts in case of unfavourable opinion by qmv)
 - procedure III: Commission may adopt only if "regulatory" committee approves by qmv; if r.c. disapproves Commission has (a) to refer to the Council which can act by qmv, if Council does not act Commission may proceed with its measure; (b) Commission cannot act if Council votes against it by simple majority)
- negotiator (→ role of the Council under the CFSP: conflict?)

4. Decision-making

- majority vote
- collective responsibility