

Special Issue 2007



EU NEWSLETTER

German League for Nature and Environment

**The Council in Context:
A Guide to the Council of the
European Union**

Legal Notice

© February 2007 German League for Nature and Environment (DNR)
Publisher

German League for Nature and Environment (DNR)
European Policy Coordination and International Affairs
Prenzlauer Allee 230
10405 Berlin, Germany
Tel. +49 30 / 443391-86, -85, -83, -81
Fax + 49 30 / 443391-80
E-mail: eu-info@dnr.de
Internet: www.eu-koordination.de

Text and Editing

Markus Steigenberger, Bjela Vossen,
Thomas Frischmuth, Juliane Grüning,
Nika Greger, Meike Fink,
Christina Drees, Matthias Bauer

English Translation

Phyllis Anderson, Berlin

Copyright

Copyright is held by the publisher. Individual articles may be reprinted if the source is indicated and third-party rights are maintained. The editors would appreciate receiving a copy of the reprinted material.

Supporting Institutions

This project is supported by funds from the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Federal Environment Agency. The supporting institutions accept no responsibility for the truth, accuracy and completeness of the information or for compliance with third-party rights. The views and opinions expressed do not necessarily reflect those of the sponsoring bodies.

The Council – Shedding Light on a Complex Institution

Dear Readers,

We have devoted this special issue to the EU's most powerful legislative decision-making body – the Council of the European Union, also referred to as the EU Council of Ministers or simply the Council. In this brochure we hope to be able to elucidate the complex voting procedures in the Council and its environment. We also want to provide an informative framework and arouse your interest in the upcoming Council presidency of your member state.

The Council Presidency

The leading position in the Council during the Council presidency of a member state represents a great opportunity and challenge for national environmental organisations. We want our demands to be at the top of the agenda and hope that our concerns will attract international media interest during this period.

What will you find in this brochure?

Council structures are complex and unclear and, as a result, this brochure is also extremely multifaceted. For that reason, before we start, a few words on the organisation of the brochure:

1. We begin with a general description of the EU Council of Ministers. Who meets in the Council, how is voting conducted, what functions does it serve? What does "one Council – nine Council configurations" mean? In addition, the Council will be placed in the context of the other EU institutions, and its democratic deficit and the inadequate separation of powers at the European level will be addressed briefly.
2. The second section takes a look at the actors associated with the Council at the European level. They are introduced individually and their relationships to the Council are explained. The exact procedures and importance of various institutions often differ from policy field to policy field. Therefore, we have concerned ourselves with the basic procedures shown on the diagram in this section of the brochure. In addition, there are a wide range of committees and working parties grouped around the Council that carry out very important functions in the decision-making process. A guest article by Christine Pohl of Friends of the Earth Europe examines the problem area of transparency within the Council.
3. Germany holds the EU Council presidency during the first six months of 2007. The third section of the brochure deals with the responsibilities that result for Germany as an example for other member states and explores whether this situation holds increased potential for non-governmental organisations (NGOs) to exert political influence. A summary of the evaluation of a project carried out by British environmental NGOs during the United Kingdom's presidency in the second six months of 2005 offers some starting points. In addition, Norbert Gorissen, Commissioner for European Affairs with the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, describes the opportunities and limitations that arise for an EU member state in the position of Council presidency. In a guest article, Jochen Roose of the Department of Sociology at the Free University Berlin addresses the subject of lobbying in the Council. Finally, we summarize our experience with the German presidency in the article "How to Tackle Your Own EU Presidency."

The editors hope you find this issue enjoyable and informative.

Markus Steigenberger, Bjela Vossen, Thomas Frischmuth, Meike Fink, Christina Drees, Juliane Grüning, Matthias Bauer

Introduction

The Council - Shedding Light on a Complex Institution	3
---	---

1. The Council of the European Union - Council of Ministers

1.1. Basic Information	5
1.2. Distribution of Votes	6
1.3. Decision-Making	6
1.4. Legislative Procedures	7
1.5. Council Configurations ("The Councils")	8
1.6. Informal Ministerial Meetings	9
1.7. Functions of the Council	10
1.8. Secretariat-General	10
1.9. Position of the Council in the European Institutional Framework	11
1.10. Democratic Deficit in the Council	11

2. Bodies That Assist and Advise the Council of the European Union

2.1. Committees and Working Parties	12
2.2. Council Working Parties	12
2.3. Permanent Representatives Committee (Coreper)	12
2.4. Special Committees	14
2.5. Comitology/Implementation Committees	15
2.6. Committee of the Regions (CoR)	15
2.7. European Economic and Social Committee (EESC)	16
2.8. The Path of Proposed EU Legislation	17
2.9. Complex Decision-Making Procedures	17
2.10. Figure 1: The Path of a Law from Proposal by the EU Commission to the First Vote in the Council	18
2.11. How Transparent is the Council of the European Union? <i>Christine Pohl, Friends of the Earth Europe (FoEE)</i>	19

3. The Council Presidency - Lobbying and Agenda-Setting

3.1. Structure and Responsibilities of the Council Presidency	21
3.2. Lobbying in the Council	21
3.3. NGO Lobbying during the British Presidency 2005	22
3.4. Possibilities for Agenda-Setting during the German Presidency <i>Norbert Gorissen and Kai Schlegelmilch, EU Division of the Federal Ministry for the Environment</i>	23
3.5. Unapproachable Colossus or Missed Opportunity? <i>Jochen Roose, Department of Sociology, Free University Berlin</i>	24
3.6. How to Tackle "Your Own" EU Presidency <i>Markus Steigenberger and Bjela Vossen, German League for Nature and Environment (DNR)</i>	26

1. The Council of the European Union – Council of Ministers

1.1. Basic Information

When we speak of the Council of the European Union, also called "the Council" or "Council of Ministers", we are actually referring to nine different bodies that deal with various issues. The Council is composed of the departmental ministers of the EU member states and thus constitutes a kind of "chamber of states" in which national interests are represented. All the ministers who meet in the Council are authorised to act on behalf of their governments with binding force; their signatures represent the signature of the entire government. If, for example, environmental issues are on the agenda, as a rule the environment ministers from all EU states attend the meeting, which is then referred to as the Environment Council. The German consumer protection minister attends the Fisheries Council, since this area falls within his province. In the event of a previous engagement or for reasons of content, other ministers may also participate, however. Although the European Parliament has gained power and codetermination, the Council is the most powerful legislative decision-making body of the EU and, at the same time, the organ of the national governments.

For voting in areas that fall within the exclusive jurisdiction of the states in Germany, in rare cases the German position may also be represented by one of the ministers of the states.¹

The Council of the European Union is not to be confused with the European Council or the Council of Europe.

European Council

The European Council² is the supreme political body of the European Union. It is composed of the heads of state and government of the member states, the president of the European Commission, one member of the Commission and the foreign ministers, although the Commission member and foreign ministers have only a consultative voice.

The European Council meets at least twice a year ("spring summit" and "autumn summit"). In practice, however, it has become customary for the European Council to meet at least four times a year. It provides the impetus for the major political issues relating to European integration, establishes general policy guidelines and adopts declarations and resolutions in which the positions of the heads of states and government on particular topics are formally expressed. In special cases, the European Council also clarifies questions that cannot be resolved at the ministerial level (Council of the European Union).

The Council may not make legally binding decisions but does have the authority to issue directions. The results are recorded in the "Conclusions of the Presidency", which are implemented by the other EU institutions. Council meetings are not open to the public. The Council president informs the European Parliament about the results, however, and submits them in a written report. The chairmanship of the European Council is assumed by the member state holding the Council presidency, which also hosts the summit meetings.

Council of Europe

The Council of Europe³ is not a body of the European Union. It is a forum for debate on common European issues in which intergovernmental agreements that are binding under international law are concluded (Council of Europe Conventions), with the aim of preserving the common heritage and promoting economic and social progress. The Council of Europe was officially established on 3 August 1949 and comprises all states in the European geographical region (except Belarus and the Holy See), as well as Armenia, Azerbaijan, Georgia, Turkey and Cyprus.

¹ Wolfgang Wessels and Anja Thomas, *Die deutsche Verwaltung und die Europäische Union* (Brühl: Bundesakademie für öffentliche Verwaltung, 2005), 101.

² www.europa.eu/european_council/index_en.htm
www.en.wikipedia.org/wiki/European_Council

³ www.en.wikipedia.org/wiki/Council_of_Europe

1.2. Distribution of Votes

In the Council of the European Union votes are taken on draft legislation proposed by the EU Commission (right of initiative¹). The method of voting (unanimous, qualified majority, simple majority) and the legislative procedure followed (consultation, assent, codecision) vary, depending on the legal basis of the draft legislation. The larger the population of a member state, the more votes it has. The number of votes does not increase proportionally, however, but is adjusted for the benefit of countries with a smaller population. The following distribution of votes has been in effect in the Council since January 2007:

Germany, France, United Kingdom, Italy	29
Poland, Spain	27
Romania	14
Netherlands	13
Belgium, Greece, Portugal, Czech Republic, Hungary	12
Austria, Sweden, Bulgaria	10
Denmark, Finland, Ireland, Lithuania, Slovakia	7
Estonia, Latvia, Luxembourg, Slovenia, Cyprus	4
Malta	3
Total	345

1.3. Decision-Making

Most Council decisions are reached by "qualified majority." Since November 2004 a qualified majority is deemed reached if

- a simple majority of the member states approve (14 of 27)²,
 - at least 255 affirmative votes are cast, and
 - the affirmative votes represent at least 62% of the total population of the EU (at least 305 million of altogether 493 million).
- If all three conditions are not fulfilled the resolution is defeated.

In several particularly sensitive areas, such as common foreign and security policy (CFSP), taxation and asylum and immigration policy, Council decisions must be approved unanimously, however. This means that each member state has the power of veto in these areas. What shall be voted on how is determined by the EC Treaty:

- unanimous: taxation, social affairs, CFSP, police cooperation/criminal matters, organs/procedural questions
- simple majority: rather seldom, e.g. procedural matters, rules of procedure
- qualified majority: in most cases, see above.

Even in cases in which the vote must only be carried by qualified majority, an attempt is made to reach a general consensus.

1 www.europa.eu/scadplus/glossary/initiative_right_en.htm

As guardian of the Treaties and the general interest, the EU Commission has the right of initiative to submit proposed legislation to the Council and the Parliament in most policy areas. It has an absolute right of initiative in "communitarised" matters in which the Council takes decisions only "on a proposal from the Commission." In issues of common foreign and security policy (CFSP) both the Commission and the member states may submit proposals. In certain matters relating to justice and home affairs, however, the Commission has no such right of initiative. Apart from that, the Council and the European Parliament may ask the Commission to submit proposals if they consider it necessary.

2 In some cases a two-thirds majority is required (18 of 27).

1.4. Legislative Procedures

There are essentially four different procedures in the European legislative process.

Consultation Procedure

In the consultation procedure the European Parliament may deliver an opinion on a proposal by the Commission, however, this opinion does not have to be taken into consideration. In addition, the Council consults the Parliament before it votes on the Commission proposal and considers its standpoint. It is not bound by the opinion of the Parliament, but only by the obligation to consult it. The Parliament must be consulted again, however, if the Council deviates too far from the original proposal. The Parliament has the least possibility to exert an influence in this procedure, which is followed, for example, in the areas of taxation, amendment of the EC Treaties and agriculture.¹

Assent Procedure

The assent procedure, which is now used in only a few cases, such as decisions on the accession of new members and on structural and cohesion funds, requires the approval of the Parliament (absolute majority) before the Council can make a decision. The Parliament may not propose any amendments, however, so that the law is defeated if it is rejected by the Parliament.

Codecision Procedure

The codecision procedure under Article 251 ECT² is the most important legislative procedure in the EU. Legislation proposed by the Commission is adopted jointly by the European Parliament and the Council of Ministers. Thus, in this procedure the Parliament has an influence on the wording of the legal text and has been able to push through several key decisions within the EU, such as stricter environmental protection regulations for fuels and motor oils, stricter and clearer warnings on the hazards of tobacco consumption and statutory regulations on environmentally compatible disposal of end-of-life vehicles. Although the Parliament does not have the right to initiate legislation, which is mainly reserved for the Commission, in the codecision procedure a legal instrument may not be adopted against the wishes of the majority of the European Parliament. This procedure, which has been in use since the Maastricht Treaty of 1993 (codecision 1) and was expanded in the Treaty of Amsterdam (codecision 2), is now followed in three-fourths of the decisions taken. The codecision procedure may include as many as three readings.

Since the codecision procedure can be extremely time-consuming if the Council and Parliament take divergent positions, in practice various forms of joint informal voting have developed. These include the "trilogue", which is not provided for in the Treaties but now forms an integral part of the codecision procedure. In the trilogue the Council presidency, two or three members of the parliamentary delegation and one representative from the Commission meet for talks to endeavour to find possible compromises, in order to be able to shorten the decision-making process.³

Cooperation Procedure

The cooperation procedure, which the Treaty of Amsterdam limited to four cases in the area of monetary union, has no longer been used during the past few years. Before the introduction of the codecision procedure, it originally gave the European Parliament greater influence in the legislative procedure.

¹ www.europa.eu/scadplus/glossary/consultation_procedure_en.htm

² EC Treaty.

³ Wolfgang Wessels and Anja Thomas, *Die deutsche Verwaltung und die Europäische Union* (Brühl: Bundesakademie für öffentliche Verwaltung, 2005), 72.

1.5. Council Configurations ("The Councils")¹

General Affairs and External Relations (GAERC)

This Council configuration meets once a month. In the meetings, which are devoted to general matters, the Council deals with cross-sectoral functions that concern more than one Council configuration (e.g. EU enlargement). During the meetings in the area of external relations, EU common foreign and security policy (CFSP) is developed on the basis of the guidelines of the European Council. The individual EU states retain control over the sectors of foreign policy, security and defence, however. They have not relinquished their national sovereignty in these areas, so the Parliament and the European Commission play only a limited role, and decisions are generally made by unanimous vote in the Council.

Economic and Financial Affairs (ECOFIN)

The ECOFIN Council meets monthly. It is responsible for coordinating the fundamental aspects of economic policy in the member states and monitoring their budget policy and public finances. Other topics include the euro (legal, practical and international aspects), financial markets, capital movements and economic relations with third countries. The Council decides mainly by qualified majority, although the European Parliament is consulted or decides jointly (codecision procedure), except in fiscal matters, which are decided by unanimity. In addition, the Council of Ministers adopts the EU budget jointly with the European Parliament after a proposal by the Commission. Finally, the Council decides on "compulsory" expenditures (in particular, expenditures for agriculture and expenses resulting from international agreements with third countries), whereas the Parliament has the final say on "non-compulsory" expenditures and the final adoption of the general budget².

Justice and Home Affairs (JHA)

This Council configuration meets approximately every two months and is composed of the justice and interior ministers of the EU member states. The key objective is the creation of a free and secure European area. In addition, the Council coordinates police and judicial cooperation in criminal matters (PJCCM). Most matters in this area are decided by unanimity, although the European Parliament is consulted. A few matters (visa issues and judicial cooperation in civil cases) are decided by qualified majority, however; the European Parliament is consulted or decides jointly (codecision procedure), depending on the subject matter.

Employment, Social Policy, Health and Consumer Affairs (EPSCO)

The EPSCO Council meets quarterly. Its task is to ensure a high level of health and consumer protection for all EU citizens. It adopts European legislation for the harmonisation and coordination of national measures pertaining to working conditions, the prevention and combating of disease and the protection of consumers' rights. The Council decides chiefly by qualified majority (except in the area of social security, which is decided by unanimity), in codecision with the European Parliament. The policy areas of employment and social security continue to fall under national jurisdiction.

Competitiveness (Internal Market, Industry and Research) (COMP)

The Competitiveness Council meets approximately five or six times a year. Depending on the agenda, the ministers of European affairs, industry, research, etc. attend the meetings. Using an integrated approach, the Council works on concepts for enhancing competitiveness and growth in Europe in the sectors of the internal market, industry and research. It decides by qualified majority, mainly in codecision with the European Parliament.

Transport, Telecommunications and Energy (TTE)

This Council configuration meets approximately every other month. Depending on the agenda, various departmental representatives (ministers of transport, telecommunications or energy) participate in the Council meetings. Whereas the area of energy policy is primarily a matter of national concern, for legislation in the transport sector the Council generally votes by qualified majority in codecision with the European Parliament. EU markets are to be opened up to more competition in the telecommunications sector.

¹ www.consilium.europa.eu/showPage.asp?id=427&lang=en

² Further information on the adoption of the EU budget: www.ec.europa.eu/budget/budget_detail/deciding_en.htm

Agriculture and Fisheries (AGFISH)

This Council meets once a month. Its members include the competent national ministers and the European Commission members who are responsible for health and consumer protection. Since 1960 agriculture has been covered largely by the common agricultural policy (CAP). The common fisheries policy (CFP) was established for fisheries in 1983. Agriculture and fisheries are two of the European Union's integrated Community policy areas in which decisions are taken at the European level by the Council and the budgets are also "communitarised." The Council meetings are prepared by 12 working parties, which are in turn broken down into 45 subdivisions according to product or area. The dossiers are then studied, either by the Permanent Representatives Committee (Coreper)¹ or the Special Committee on Agriculture (SCA),² before being forwarded to the Council. The voting procedure and extent of involvement by the Parliament varies considerably depending on the legal basis, i.e. which Article of the EC Treaty the adoption of proposed legislation is based on.

Environment (ENV)

In this Council configuration the environment ministers meet approximately four times a year. Official EU environmental policy is based on the principles of precaution and prevention, the principle of combating environmental damage preferably at its source and the polluter pays principle. In the area of environmental policy the Council generally decides by qualified majority using the codecision procedure, after consultation with the Committee of the Regions³ and the Economic and Social Committee.⁴ In decisions on regulations which are primarily fiscal in nature and on measures pertaining to regional planning and various aspects of the use of water resources, or measures significantly affecting a member state's choice between different energy sources and the overall structure of its energy supply, the Council decides unanimously at the proposal of the Commission, after consultation with the European Parliament, the Economic and Social Committee and the Committee of the Regions.⁵

Education, Youth and Culture (EYC)

This Council configuration, which meets approximately three to four times a year, comprises the ministers of education, culture, youth and communication. The Council usually adopts decisions by qualified majority (except in the area of cultural affairs, where voting is by unanimity) in codecision with the European Parliament. The Council's primary role is to provide a framework for cooperation between the member states, but it may also adopt legislation, for example, in the areas of audiovisual media and mutual recognition of diplomas.

1.6. Informal Ministerial Meetings

In addition to the official Council meetings, informal ministerial meetings are also held in which, unlike normal Council meetings, no decisions are made. Instead, the ministers confer on strategic topics, positions are sounded out, factions formed and possible "deals" discussed. Although the informal Councils are not open to the public and there are no official agendas, they represent a top-level political "playing field." Important decisions are prepared, and that also accounts for the considerable media interest, despite the secrecy, and the size of the delegations, which approaches that of official Council meetings. In addition, the Council presidency may include topics discussed during the informal ministerial meetings on the Council of Ministers' agenda. An "informal Council" may not only be an informal meeting of the Council of the European Union (Council of Ministers) but may also be an informal meeting of the European Council (heads of state and government).⁶

1 See p. 12.

2 See p. 14.

3 See p. 15.

4 See p. 16.

5 www.eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf (Article 175).

6 See p. 5.

1.7. Functions of the Council

- The Council of Ministers adopts European legislation, in most areas jointly with the European Parliament, using the codecision procedure.¹ As a rule, the Council only acts on a proposal of the EU Commission (right of initiative). After the adoption of European legislation, the Commission is normally responsible for seeing that it is properly implemented (Article 202 ECT²).
- The Council of Ministers concludes international agreements between the EU and other states or international organisations. These agreements may cover broad areas, such as trade, cooperation and development, or may concern specific subjects, such as textiles, fisheries, science or transport.
- The Council determines the salaries, allowances and pensions of the president and members of the Commission, the president, judges, advocates-general and registrar of the Court of Justice and the members and registrar of the Court of First Instance by qualified majority. It decides on all other remuneration paid as compensation, also by qualified majority (Article 210 ECT).
- The Council may request the Commission to undertake studies and submit appropriate proposals (Article 208 ECT).
- The Council nominates and appoints the president of the Commission (Article 214 ECT), the Secretary-General of the Council and High Representative of the EU (Article 207 ECT), the members of the European Commission (Article 214 ECT), the Economic and Social Committee³ and the advisory committee of the ECSC⁴ (Article 259 ECT), the Committee of the Regions⁵ (Article 263 ECT), the Court of Auditors (Article 247 ECT), the European Court of Justice (Article 223 ECT), the Management Committee of the European Central Bank, the board of directors of the European Investment Bank, the Economic and Financial Committee, the Article 36 Committee⁶ and the research committees of Euratom.⁷
- The Council exercises the power of compulsory retirement over the Management Committee of the European Investment Bank and has the right of application for compulsory retirement of the members of the European Commission by the European Court of Justice (Article 216 ECT).
- The Council has a limited power of control over the Commission in the implementation of the budget (Article 276 ECT).
- The Council allocates the internal resources of the Community.
- The Council prepares the draft budget.⁸

1.8. Secretariat-General

The Secretariat-General has approximately 2500 staff members and is responsible for the preparation and smooth execution of the work of the Council at all levels. Since 1999 the Spanish politician Javier Solana has been Secretary-General and High Representative for the common foreign and security policy (CFSP). In this capacity he assists the Council in the formulation and implementation of policy decisions and conducts political dialogue with third countries on behalf of the Council. The Secretary-General is assisted by a deputy, who is in charge of the organisational management of the Secretariat-General. The Secretary-General participates in all key meetings of the European Council, the General Council and the Permanent Representatives Committee⁹ (Coreper).¹⁰

1 Codecision procedure: see p. 7.

2 EC Treaty.

3 See p. 16.

4 European Coal and Steel Community: http://en.wikipedia.org/wiki/European_Coal_and_Steel_Community

5 See p. 15.

6 See p. 14.

7 www.en.wikipedia.org/wiki/European_Atomic_Energy_Community

8 www.eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E_EN.pdf

9 See p. 12.

10 Wolfgang Wessels and Anja Thomas, *Die deutsche Verwaltung und die Europäische Union* (Brühl: Bundesakademie für öffentliche Verwaltung, 2005), 100.

1.9. Position of the Council in the European Institutional Framework

The EU is a unique alliance of states with an institutional structure that defies any clear-cut classification. While the EU member states are autonomous countries, they have also delegated authority to the EU level, which now exercises it with sovereign power. Whereas the European Council issues economic and socio-political guidelines and adopts important foreign policy declarations, the "institutional triangle" of the EU (Council, Parliament and Commission) develops the political programmes and legislation that are in force in the entire Union.

In principle, the Commission proposes new EU legislation. In addition to the Commission, the cabinets of the Commissioners and the competent Directorates-General, special representatives of the national governments and European and national interest groups are also involved in this preparatory phase. Since representatives of the national administrations are consulted during the preparatory phase, the Commission's exclusive right of initiative is restricted; at the same time, however, subsequent procedures become more predictable because differences of opinion thus emerge clearly. The national officials consulted by the Commission as experts frequently play an important role in the decision-making and implementation phase as well.

The Parliament and Council follow different procedures when voting on Commission proposals. By comparison, the Council is the more dominant institution, representing national interests at the EU level, while the Parliament is elected directly by EU citizens and represents their interests. The Commission is independent of the national governments. It represents and protects the interests of the entire European Union. In addition, the Commission is the executive branch of the EU, since it is responsible for implementing and monitoring decisions. Other important institutions are the Court of Justice, which ensures compliance with European law, and the Court of Auditors, which checks the financing of EU activities.

1.10. Democratic Deficit in the Council

Taking the Council as an example, the institutional dilemma of the EU becomes clear. The Council of Ministers, the most important European legislative organ, is formed by the national governments, without the European Parliament or the national parliaments having adequate opportunities for control. Thus the national principle of separation of powers (legislative - executive - judicial) is clearly violated. Only through the use of the codecision procedure can the European Parliament exercise a certain control function, yet this procedure is not followed in the particularly sensitive areas of European policy.

Thus, governments may be able to push through Europe-wide legislation indirectly via EU laws which would not have been possible in the member states because of the democratic process. The introduction of biometric passports with fingerprints is an example of this.¹ To make the work of the Council of the European Union more transparent to the public, all deliberations of the Council during the codecision procedure were open to the public for a trial period until January 2007.² ■

1 www.en.wikipedia.org/wiki/Democratic_deficit

2 Conclusions of the Presidency of the European Council: www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/90111.pdf

2. Bodies That Assist and Advise the Council of the European Union

2.1. Committees and Working Parties

The EU institutions are advised by committees and working parties during all phases of the legislative process. In general, their function is to develop politically acceptable and technically feasible solutions and thus to facilitate the work of the ministers who meet in the Council.

2.2. Council Working Parties

In the Council working parties the legislation proposed by the Commission, which is voted on at the national level, is debated among the member states in the presence of representatives from the Commission. The debates take place at the official level. As a rule, the national delegations are headed by officials from the permanent representation. The federal ministers send the appropriate experts to the discussions depending on the topic of the Council working party. Several working parties carry out the preparatory work for the subordinate committees and the Permanent Representatives Committee (Coreper, see below).

The negotiations in the Council working parties constitute the first step towards reaching a consensus at the EU level and at the same time represent the "decision-making machinery" of the Council, since many Council decisions are already made in these bodies. Although several of these working parties are only set up temporarily to deal with specific bills, approximately one hundred working parties meet regularly to deal with particular areas.¹ The majority are in the agricultural sector.

There are only two working parties within the environmental policy area: the Working Party on Environment and the Working Party on International Environmental Issues. The latter meets under different names, however, e.g. Chemicals, Climate Change or Biodiversity. Coreper decides whether working parties should be established.²

2.3. Permanent Representatives Committee (Coreper³)

The Permanent Representatives Committee is composed of the permanent representatives of the member states, i.e. the so-called EU ambassadors and their deputies.

For example, Germany's permanent representative is currently Dr. Wilhelm Schönfelder; his deputy is Dr. Peter Witt. Apart from the ambassador to the UN, the permanent representative is the most distinguished ambassador. He is the only one who, to a limited extent, may also make policy decisions without having to consult the departmental ministry, although he has very little latitude. The permanent representative is a high-level diplomat with the Foreign Office; his deputy is sent by the Federal Ministry of Economics. All told, the permanent representation has 188 employees, 161 of which are delegated personnel. All federal ministries have seconded personnel to the permanent representation through the Foreign Office. The remaining 27 staff members are recruited locally. The permanent representation is composed of the three departments of policy, economic affairs and finance and several specialised sections and work groups. These work groups cover the entire policy area.

Coreper is divided into two configurations. Coreper II consists of the permanent representatives (EU ambassadors) of the 27 member states, who deal primarily with political affairs. They prepare for the Councils of the foreign ministers, the ECOFIN Councils of the finance ministers and the three Councils of Justice and Home Affairs. Preparation for the meetings of Coreper II is in turn undertaken by its staff, which meets in the Antici Group (named after its first chairman), established in 1975.

The deputy permanent representatives meet in Coreper I, which deals particularly with technical matters. It does the preparatory work for the other six Council configurations. These meetings are prepared by the appropriate staff members, who convene in the Mertens Group, which was established in 1993.⁴

1 www.europa.eu/scadplus/glossary/experts_committees_en.htm

2 List of committees and Council working parties of the German presidency (1 January - 30 June 2007): www.eu2007.de/en

3 From the French: Comité des représentants permanents.

4 Wolfgang Wessels and Anja Thomas, *Die deutsche Verwaltung und die Europäische Union* (Brühl: Bundesakademie für öffentliche Verwaltung, 2005), 97.

The Coreper agenda, like that of the Council, is subdivided into two parts. Part I, which corresponds to Part A of the Council agenda, comprises those items on which an agreement was reached in the Council working party and which can be approved by Coreper without debate. If a delegation raises an objection, the item will be dealt with again at the next meeting under Part II. Items under Part II, which corresponds to Part B in the Council, must be examined by Coreper with regard to their subject matter. In addition, communications from petitioners are submitted under the agenda item "Any other business", although a decision is not possible. If Coreper reaches an agreement on an item under Part II, it becomes an A item on the Council agenda.

During its debates Coreper in turn relies on the results of the work of approximately 300 standing Coreper working parties. Experts from the national ministries and officials from the permanent representations meet in these working parties. Representatives from the Commission also attend. They discuss draft decisions and legislation, propose amendments and develop compromises that facilitate agreement in the Council.¹

Coreper has the task of preparing the work of the Council. Under Article 207 of the EC Treaty, all dossiers to be discussed or decided at a meeting of the Council of Ministers must first pass through the Permanent Representatives Committee. Although Coreper is only an "auxiliary body of the Council" and the guidelines it develops may be questioned by the Council at any time, it nevertheless plays a key role in the Community decision-making process within a growing EU. During Council meetings the national permanent representation advocates national positions, solicits understanding and seeks allies, particularly in matters where a majority decision is required, in order to appropriately incorporate national concerns into the legal texts and decisions of the Council. On the other hand, in its reports and advice to national delegations travelling to Brussels, the permanent representation also communicates the interests and concerns of the other member states and the EU institutions, since only in this way can an overall majority compromise be reached.

Every four months the permanent representation compiles an early-warning report giving an overview of projects which are currently being prepared by the Commission or will soon come to a vote in the Council. In this way problems involving conflicts of interest between member states and the Commission can be anticipated. The early-warning report is sent to the Chancellor's Office and to the Commissioners for European Affairs of all ministries and is important for the coordination of the national position.²

The staff of the permanent representation play a key role, because they accompany the entire negotiation process at the EU level. They chair the working parties, sit on the committees and advise Coreper in their respective fields, since the political decision-makers who meet there are dependent on technical expertise. They have no decision-making authority, however, and must agree with the responsible national ministry. Although the competent staff member from the permanent representation is present at the Council meeting, it is the ambassador who advises the minister.

¹ www.bmwa.gv.at/NR/rdonlyres/63319ADB-1EB4-4504-9638-A01C28F0575F/14794//Coreper1.pdf

² Wolfgang Wessels and Anja Thomas, *Die deutsche Verwaltung und die Europäische Union* (Brühl: Bundesakademie für öffentliche Verwaltung, 2005), 161.

2.4. Special Committees

Under the Treaties and out of practical necessity, committees have been established for several policy areas, which coordinate the activities of the Council in specific fields. Coreper's key function is not encroached upon by these committees, however, since the committees serve more of a linking function between the working parties and Coreper, although they may also report directly to the Council. These committees were set up to close hierarchical gaps that exist between the Council working parties (section and department heads) and Coreper (EU ambassadors and their deputies). The staff of these "intermediary bodies" are often department heads in the ministries responsible for the subject matter. The competent staff of the permanent representation who are already in the Council working parties also attend the committee meetings in an advisory capacity. These committees are chaired by the member state which currently holds the EU presidency.¹

The committees attempt to find solutions for reaching a consensus on items that are still open after the discussions at the Council working party level, in order to facilitate the work of Coreper and the Council.

The Special Committee on Agriculture (SCA) prepares the extremely technical matters that the Agriculture Council deals with and thus fulfils the same role as Coreper does in other areas. The items it has examined are included directly on the agenda of the Agriculture Council.² The SCA meets at least once a week and is composed of staff from the permanent representation and officials from the national agriculture ministries.

The important Economic and Financial Committee (Article 114 (2) ECT³) has the task of monitoring the monetary and financial situation and general payment transactions of the member states and reporting regularly to the Council and the Commission. The committee is composed of high-ranking and influential members (two from each EU member state – one official from the national administration and one staff member from the national central bank – as well as two members of the Commission and two staff members from the European Central Bank). It has the right to speak in the ECOFIN Council.

Also worthy of mention is the Article 133 Committee (Committee 133), which was established in the area of common trade policy. The Commission conducts negotiations on the conclusion of international trade agreements between the EU and one or several states or international organisations, after authorisation by the Council in consultation with this committee and Coreper. In addition, this committee is consulted by the Council and the Commission on technical matters. The full members of the committee (ministers of trade or similarly high-ranking officials) meet once a month, while the less senior representatives from the ministries or Coreper members meet almost every week.

The Political and Security Committee is a consultative and conciliation body that monitors and analyses the international situation and its development in the areas covered by the CFSP. Its establishment is provided for in Article 25 of the EC Treaty. It contributes to the establishment of policy by delivering opinions and is composed of officials from the foreign ministries.

In addition to its coordinating activities in the area of police and judicial cooperation in criminal matters, the Article 36 Committee (prior to the Treaty of Amsterdam, the K4 Committee) has the task of submitting opinions to the Council and contributing to the preparation of Council work. It is composed of senior officials from the ministries of justice and the interior.

The Political Committee and the Article 36 Committee make use of subcommittees and working parties.⁴

1 List of committees and Council working parties of the German presidency (1 January - 30 June 2007): www.eu2007.de/en

2 www.bmwa.gv.at/NR/rdonlyres/63319ADB-1EB4-4504-9638-A01C28F0575F/14794/Coreper1.pdf

3 EC Treaty.

4 www.bmwa.gv.at/NR/rdonlyres/63319ADB-1EB4-4504-9638-A01C28F0575F/14794/Coreper1.pdf

2.5. Comitology/Implementation Committees - Articles 202, 211 ECT²

Comitology committees are management and expert committees within the EU which are intended to support the Commission in the implementation of legal instruments that have been adopted and to guarantee quick, effective and responsible action.

The approximately 300 comitology committees (of which only around three-quarters are really active) are spread over all important policy areas. They are composed of representatives from the member states who are experts in their respective fields and meet under the chairmanship of a Commission representative, who does not have voting rights, however.

In 2003 a total of 1024 meetings were held by 256 comitology committees. The policy areas of transport, energy, the environment, enterprise and agriculture alone accounted for 143 committees.¹

In order to counter the charge of non-transparency, in 1999 the European Parliament was granted a right to be consulted in the "Comitology Decision."² In addition, the decision gives every EU citizen the possibility of accessing committee documents in the Internet. The register³ contains only those documents which have not been classified as confidential, however.⁴

2.6. Committee of the Regions (CoR) - Articles 263-265 ECT

The Committee of the Regions (CoR) was established in 1994 and is a political advisory body that is composed of delegates from European local and regional governments and represents their interests at the EU level. The Committee of the Regions is composed of 344 members distributed over the EU member states roughly according to population.

CoR members are recommended by the national governments and appointed by the EU Council of Ministers for a four-year term. They are not bound by instructions, thus they theoretically work with complete political independence.

The professed aim of the CoR is to bring the EU closer to citizens by taking the concerns of local communities, municipalities and regions into consideration when new European regulations are drafted.

The European Treaties stipulate that the Commission and the Council must request an opinion from the Committee of the Regions in all areas in which EU legislative proposals could have repercussions at the local and regional level. Five such areas are specified in the Treaty of Maastricht: economic and social cohesion, trans-European infrastructure networks, health, education and culture. Five other areas were added to this list in the Treaty of Amsterdam: employment policy, social policy, the environment, vocational training and transport. These areas now cover most of the scope of EU activity. In addition, the Commission, Council and Parliament may consult the CoR in other areas if, in their view, a legislative proposal has considerable local or regional consequences. The CoR may also deliver an opinion on its own initiative and thus has the possibility of putting topics on the EU agenda.

The Committee of the Regions holds five plenary sessions each year in which general policy is defined and opinions are adopted. These five meetings and the opinions are prepared by six CoR commissions to which the CoR members are assigned:

- Commission for Territorial Cohesion Policy (COTER)
- Commission for Economic and Social Policy (ECOS)
- Commission for Sustainable Development (DEVE)
- Commission for Culture, Education and Research (EDUC)
- Commission for Constitutional Affairs, European Governance and the Area of Freedom, Security and Justice (CONST)
- Commission for External Relations and Decentralised Cooperation (RELEX).

1 Wolfgang Wessels and Anja Thomas, *Die deutsche Verwaltung und die Europäische Union* (Brühl: Bundesakademie für öffentliche Verwaltung, 2005), 107.

2 www.eur-lex.europa.eu/LexUriServ/site/en/consleg/1999/D/01999D0468-20060723-en.pdf

3 www.ec.europa.eu/transparency/regcomitology/registre.cfm?CL=en

4 www.en.wikipedia.org/wiki/Comitology
www.europa.eu/scadplus/glossary/comitology_en.htm

In addition to the commissions, CoR also has a president and a bureau. The bureau represents the political driving force of the CoR, since it draws up the committee's political programme at the beginning of each new term, oversees the implementation of this programme and generally coordinates the work of the plenary sessions and the commissions. As a rule, the bureau meets seven times a year and is composed of the president, the first vice president, 27 other vice presidents, 27 other members and the presidents of the political groups EPP, PES, ALDE and UEN-EA.^{1 2}

2.7. European Economic and Social Committee (EESC) - Articles 257-262 ECT

The European Economic and Social Committee (EESC) is a consultative body and not an organ of the EU. It was established in 1957 by the Treaty of Rome. In it employers, trade unions, farmers, consumers and other interest groups are represented which collectively make up "organised civil society."

The EESC is composed of 344 members, who are apportioned among the EU member states approximately according to population. The Committee members are nominated by the governments of the member states but they work with complete political independence. They are appointed for four years and may be reappointed (next appointment: October 2010). Every two years the Committee elects a bureau made up of 37 members, a president and two vice-presidents. The EESC has only an advisory function, thus it makes no decisions. In several areas, such as environmental and regional policy, the Council and the Commission must consult the EESC, in other cases it is optional. Consultation with the EESC is of interest to the European institutions because it provides a platform for expressing civil society opinions and in this way opposition to proposed legislation can be identified.

The EESC issues opinions on legislative initiatives of the EU Commission and represents the interests of its members in policy consultations with the Commission, the Council and the Parliament. The members of the Committee are divided into the following groups:

- Group I: Employers
- Group II: Employees
- Group III: Various interests
- Unaffiliated.

The full Committee meets in plenary session nine times a year. Its discussions are prepared by sections, each of which is responsible for a particular policy area:

- Economic and Monetary Union and Economic and Social Cohesion (ECO)
- Single Market, Production and Consumption (INT)
- Agriculture, Rural Development, the Environment (NAT)
- External Relations (REX)
- Employment, Social Affairs and Citizenship (SOC)
- Single Market Observatory (SMO)
- Transport, Energy, Infrastructure and the Information Society (TEN).

Study groups consisting of three to 18 members do the preliminary work for the sections. They may also be assisted by external experts.

After the expiration of the ECSC Treaty³ in July 2002 the EESC assumed the responsibilities of the ECSC's Consultative Committee and in addition set up the Consultative Committee on Industrial Change (CCMI), which is concerned with the coal and steel sector as well as problems of economic modernisation.

EESC opinions are adopted at the plenary sessions by a simple majority and are published in the EU's Official Journal. Approximately 170 opinions are delivered each year, of which around 15 per cent are issued on its own initiative and not at the request of EU institutions.⁴

1 European People's Party (EPP), Party of European Socialists (PES), Alliance of Liberals and Democrats for Europe (ALDE), Union for Europe of the Nations – European Alliance (UEN-EA).

2 www.cor.europa.eu/en

3 ECSC: European Coal and Steel Community: www.en.wikipedia.org/wiki/European_Coal_and_Steel_Community

4 www.eesc.europa.eu/index_en.asp

2.8. The Path of Proposed EU Legislation

All legislation proposed by the EU Commission is first submitted to the European Parliament and the Council.¹ The Secretariat-General of the Council passes the proposal on to the competent ministries of the member states for national approval. The national positions of the EU member states are first discussed in the Council working parties. If a dossier discussed in a Council working party has achieved sufficient political "maturity" in the view of the chairperson, further discussion follows in a committee. The third step is the negotiations in the Permanent Representatives Committee (Coreper) or in the Special Committee on Agriculture. In conclusion, the dossier is discussed by the ministers in the Council. The opinions of the European Parliament are incorporated to varying extents depending on the legislative procedure (codecision, consultation, assent). If the law is adopted the comitology committees of the Commission see that it is implemented.²

The following factors determine the speed at which proposed legislation passes through the "Council machinery":

- the urgency of the proposed legislation,
- the controversiality of the proposal and the support and opposition in the member states,
- the extent to which the Commission considers the goals and opposition of the member states already expressed beforehand,
- the complexity of the proposed legislation,
- the ability of the members of the Council working parties, the permanent representation and the Council to draft compromise formulations (through the presidency or the Commission) and to accept them,
- if approved by qualified majority a consensus can potentially be reached more quickly than by unanimity.³

2.9. Complex Decision-Making Procedures

The importance of working parties and committees should not be underestimated: in 1996 125 Council meetings and 117 Coreper sessions took place, but there were approximately 2500 (!) meetings of Council working parties.

The role of committees, working parties and Coreper in decision-making is becoming increasingly important since, with 27 EU members, it is no longer possible to consider national preferences and find solutions to conflicts during the official Council meetings due to time constraints. As a result, discussions and negotiation processes are increasingly shifted to the preparatory bodies. The problem for the outside observer is that decision-making procedures can only be understood with considerable effort – if at all – since there is no reliable official information on the number of different working parties and committees, their staffs and the effectiveness of their work. Preliminary decisions are increasingly made in the Council working parties and Coreper which are then only formally adopted in the Council. Political scientists assume that 70% of the dossiers are voted on in the Council working parties and another 15-20% in Coreper.⁴

In addition to the committees officially established under the EC Treaty and EU legislation, many other committees and working parties support the work of the Council. There is an increasing trend toward the formation of ad hoc committees of senior officials, known as high-level groups, which work with pressing and sensitive issues.⁵

In view of the expanding workload, however, the Council is not a discussion group but a decision-making body. According to the common perception the optimal course of a Council meeting is as follows: the proposals that have been approved – the A items – are submitted to the ministers and they only have to "nod their approval."

If possible, the agenda submitted to the Council should be completely agreed on, since the more agenda items are open, the longer the Council meeting will last. Furthermore, the ministers in the Council tend to accept political compromises that are difficult to comprehend objectively – only for the sake of coming to a decision. The higher the body is in the hierarchy, the more broad-based policy enters into the decision-making and expertise decreases, since a minister cannot be an expert on every detail.

1 Legislative procedures: see page 7.

2 www.bpb.de/files/RQY6TC.pdf

3 Neill Nugent, *The Government and Politics of the European Union*, (London: Macmillan Press), 156.

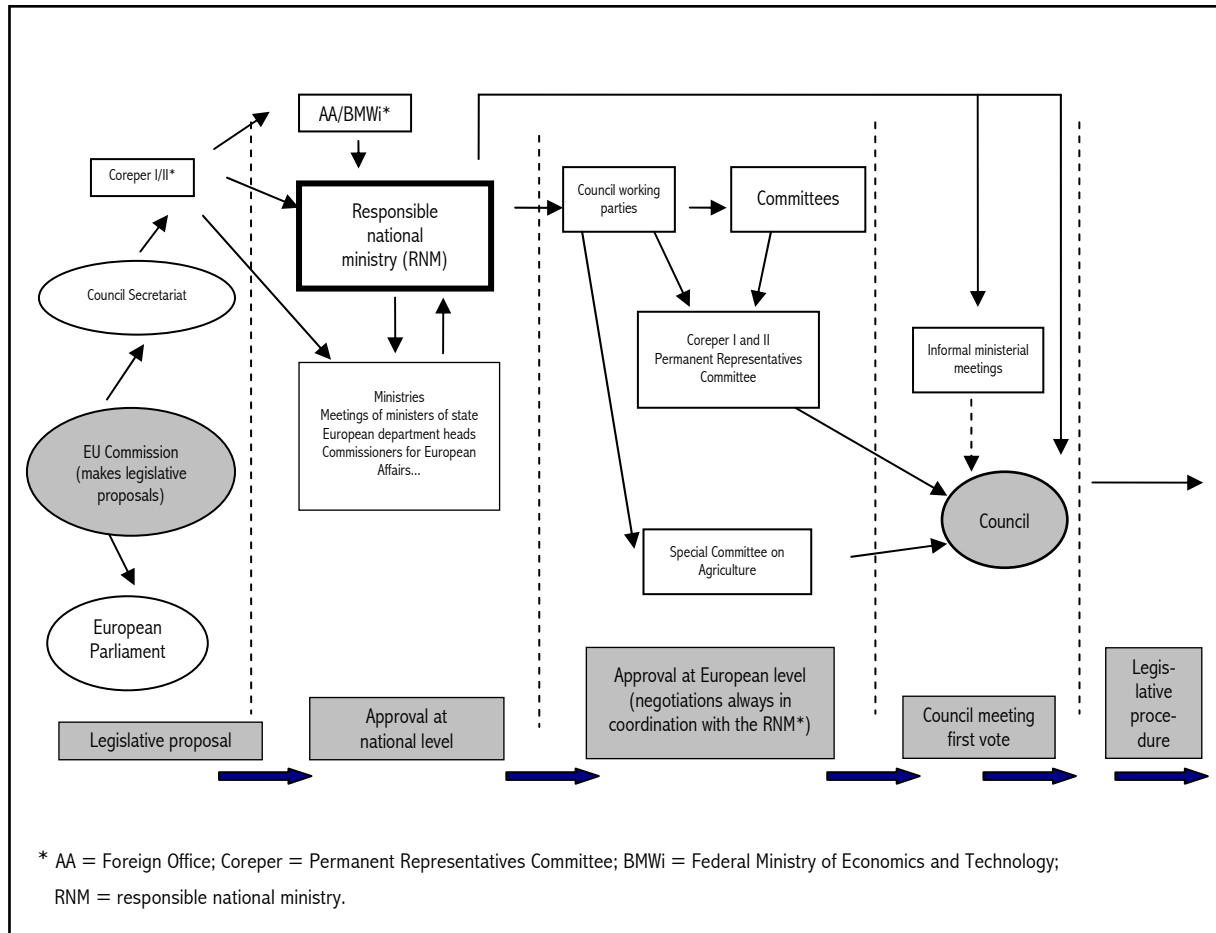
4 F. Haynes-Renshaw and H. Wallace, "Executive Power in the European Union: The Functions and the Limits of the Council of Ministers", *Journal of European Public Policy* 2, no. 4 (1995): 559-582.

5 Neill Nugent, *The Government and Politics of the European Union*, (London: Macmillan Press), 152-153.

Bodies That Assist and Advise the Council ▼

There is a division between technical and political levels of coordination in Coreper, although it is difficult to define. Because the ambassadors are political individuals who are faced with difficult and highly political issues at the embassy level, the Mertens and Antici groups¹ precede Coreper in order to clarify unresolved questions before the ambassadors meet. These two groups take the role of mediators; in their highly confidential, closed meetings, which prepare for the Coreper I and II meetings, representatives of the committee chairs (department heads) explore possible compromises, which the ambassadors usually accept.

2.10. Figure 1: The Path of a Law from Proposal by the EU Commission to the First Vote in the Council



¹ See page 12.

2.11. How Transparent is the Council of the European Union?

Guest article by Christine Pohl, Friends of the Earth Europe (FoEE)

Council Decisions – Open and Citizen-Oriented?

The European Council is politically the most important decision-making body of the EU. At the same time, however, the Council of Ministers is still the least transparent EU institution. If the major part of the work is carried out behind closed doors, how can there be democratic, public monitoring of the decisions and work of the Council?

Council meetings have traditionally been strictly confidential. The first exceptions were regulations introduced in 1992 which made certain debates "public" by means of television broadcasts in the Council press room. This was followed by improvements in public access to official documents, making all votes under the codecision procedure public and public presentation of all important proposed legislation that falls under the codecision procedure. For all other legislative procedures, however, the rules continue to be as non-transparent as ever.¹

Under pressure from the European Parliament and the public, the Council announced in December 2005 that in the future it will publicly present all proposed legislation under the codecision procedure – not only the most important. At its meeting in June 2006 the Council of Ministers decided that all negotiations on proposals under the codecision procedure will be held publicly; for other decision procedures the entire debate may be open to the public, but the Council may also opt for a closed session. The 18-Month Programme of the Council, the Plan for the Year and the Five-Year Plan and legislative strategies will also be discussed publicly.²

It remains to be seen whether the working methods and decisions of the Council will actually become more transparent. It would be desirable if in principle all deliberations on legislative initiatives were held publicly – which, by the way, was stipulated in the European Constitutional Treaty.³ The secrecy variant continues to apply for bills that are not discussed in the codecision procedure, however – despite the Council's lip service to more public sessions.

Sectors which are not decided in the codecision procedure include agriculture, fisheries, international trade, immigration, family law, criminal law, foreign and defence policy, taxation and monetary policy and international agreements in general. It is difficult to understand why these areas should continue to be debated behind closed doors. What is there to hide?

Preparation of Decisions in the Permanent Representatives Committee

The Permanent Representatives Committee (Coreper) in Brussels works in a number of specialised committees and approximately 300 standing or temporary working parties composed of delegates from the member states, the EU Commission and the Council Secretariat. Due to their official advisory status, concluding debates and voting are not recorded or published.⁴ These committees and working parties often have enormous influence on the decisions of the Council, however. In the trade sector, the Article 133 Committee – composed of government officials from the trade, finance and foreign ministries of the member states and representatives of the European Commission⁵ – are even more important than the Council itself; most agreements are negotiated there and the Commission normally follows its recommendations. The Council of Ministers is rarely consulted any more.⁶

The work of Coreper in the working parties and committees is not affected at all by the new transparency regulations – thus more transparency can hardly be expected of it in the future.

The Brussels of the Lobbyists

Another important area will remain a complete mystery in the future as well: the influence of various interest groups on Council decisions.

The Council likes to portray itself as an institution that is uninfluenced by lobbying. The Commission and Parliament would deal with lobbyists, but not the Council.⁷ In reality it is difficult to judge how much exchange takes place between Council members and lobbyists; the majority of the lobbying understandably occurs at the national level. Regulations on transparency vary from country

1 S. Peers, *Openness and Transparency in the Council*, Statewatch Analysis, University of Essex, 2006, p. 1 ff.

2 Ibid.

3 Treaty establishing a constitution for Europe, Article I - 24.6.

4 Christina Deckwirth, *The EU Corporate Trade Agenda*, Seattle to Brussels Network. Brussels/Berlin, 2005, p. 12.

5 See page 14. Members of the Article 133 Committee: www.s2bnetwork.org/index.jsp?id=15

6 Christina Deckwirth, *The EU Corporate Trade Agenda*, Seattle to Brussels Network. Brussels/Berlin, 2005, p. 12.

7 Institute of Public Administration, *Regulation of Lobbyists in Developed Countries; Current Rules and Practices - Study requested by the Department of the Environment, Heritage and Local Government of Ireland*, Dublin, 2004, p. 11.

to country. Without Europe-wide introduction of minimum standards for transparency and lobbying it will be difficult to get a better grasp of the situation – at any rate, it is highly unrealistic to expect improvement at this point.

More transparency could definitely be provided in Brussels, however. The permanent representatives are worthwhile targets for lobbyists. It is by no means unusual for lobby groups to establish contact with the working parties and committees of the Council. For example, representatives of the Article 133 Committee regularly meet informally with representatives of the trade associations, e.g. the European lobbyists representing the interests of the industrial and employers' associations (Union of Industrial and Employers' Confederations of Europe – UNICE, now BusinessEurope) and the services sector (European Services Forum – ESF).¹ These informal meetings can even replace the regular working meetings of the Article 133 Committee. In May 2006 the ESF sent an invitation to a working meeting and enclosed the agenda of the regular committee meeting. The only change: at the close of this working meeting cocktails were on the agenda.²

The representatives of the Council presidency, in particular, have an influence on the subject matter and agendas of the working party meetings and are therefore often lobbied most intensively.³ During the Finnish Council presidency a meeting took place between the president of UNICE, the Finnish Industrial Association and the Finnish Minister of Trade and Industry, Mauri Pekkarinen, who was chairman of the Competitiveness Council. UNICE described the discussion on its expectations of the Council presidency as "fruitful."⁴

The Council Secretariat in Brussels keeps neither a register nor any other list of lobbying contacts with Council representatives, since the Council supposedly has nothing to do with lobbyists. In order to get a clearer picture of the various influences of interest groups on Council decisions, certain basic rules should be introduced immediately, at least for Coreper and the Council Secretariat in Brussels. A first step would be a register of all lobbyists with whom the permanent representatives and working parties have contact which is as comprehensive as possible and can be publicly inspected.

The European Transparency Initiative

EU Commissioner Siim Kallas, responsible for Administrative Affairs, Audit and Anti-Fraud, officially launched the European Transparency Initiative in 2005, with the aim of increasing the transparency of European institutions and, with it, citizens' trust in European politics. In May 2006 Kallas recommended concrete measures which are so weak, however, that more transparency can hardly be expected.⁵ Least of all in the Council, since it is not mentioned even once. ■

Contact

Christine Pohl, Friends of the Earth Europe, Rue Blanche 15, B-1050 Brussels
Tel. +32 2 / 5426104, Fax +32 2 / 53755 96
E-mail: christine.pohl@foeeurope.org
www.foeeurope.org

1 Christina Deckwirth, The EU Corporate Trade Agenda, Seattle to Brussels Network, Brussels/Berlin, 2005, p. 13.

2 ESF invitation (ESF06-13) of 2 May 2006 and message of the Council Secretariat to the members of the Article 133 Committee (MD: 82/06) of 4 May 2006.

3 John & Schwarzer, Industrial Lobbying within the European Union: Actors, Strategies and Trends in the Multi-Level System, AICGS Policy Report, Washington, 2006, p. 8;
European Parliament, Lobbying in the European Union: Current Rules and Practices, Working Paper, AFCO 104 EN, Brussels, 2003, p. 8.

4 UNICE: UNICE support priorities of the Finnish EU Presidency, Headlines Issue No. 25/2006, p. 1.

5 European Commission: Green Paper European Transparency Initiative, Brussels, 13 July 2006:
www.ec.europa.eu/commission_barroso/kallas/doc/com2006_0194_4_en.pdf

3. The Council Presidency - Lobbying and Agenda-Setting

3.1. Structure and Responsibilities of the Council Presidency

The country that holds the presidency of the European Council¹ also chairs the meetings of the Council of the European Union. The chair is assisted by the Secretariat-General, which has a staff of approximately 2500.

The Secretariat-General works particularly closely with the national representatives of the EU Council presidency, since they can influence the agenda to a limited extent. Before every Council meeting, the staff of the Secretariat gives the presidency representatives a briefing on the status of the discussions on the subject matter to be deliberated on and the overall atmosphere in the other member states.²

The Council chairmanship is assumed by the member state that holds the presidency, in rotation according to a pre-established sequence for six months each (from January to June and July to December):

Year	First Six Months	Second Six Months
2007	Germany ³	Portugal
2008	Slovenia	France
2009	Czech Republic	Sweden
2010	Spain	Belgium

First of all, the Council presidency means organisational duties for the respective government. It fixes the dates for the Council meetings, prepares the agenda and ensures that everything runs smoothly at the meeting place. The presidency carries out this responsibility at all levels – from the Council meetings to the approximately 100 official and informal ministerial meetings and the weekly meetings of the Permanent Representatives Committee (Coreper) to the approximately 1500 meetings of the many Council working parties. A representative of the country that holds the presidency acts as chairperson at all Council meetings. These organisational duties can represent a tremendous administrative burden and result in enormous costs for small countries.

It is crucial for the reputation of the presidency that results are achieved. Therefore, the government representatives must negotiate a consensus, they must have a balancing effect and develop proposals for solutions if the negotiations reach an impasse. Although the presidency has a certain freedom in setting priorities, its own wishes must often rank behind the need to reach decisions.

The six months of the presidency are also characterised by cooperation with the previous and subsequent presidencies. The cooperation of this "troika" is important because many working programmes and projects cannot be completed during the brief presidency and thus continue to be day-to-day business. That also limits the presidency's possibilities for pursuing its own interests.

In addition, the presidency is responsible for the common foreign and security policy (CFSP), it represents the EU outside the Union and it is the point of contact for third countries.

3.2. Lobbying in the Council

► Since the Council is composed of the competent ministers from the respective member states, lobbying in the Council does not necessarily take place in Brussels but at the national level. After the EU Commission has submitted its proposal, it also makes sense to lobby the concerned ministers of the member states and their ministries (responsible staff or trusted aides) and the coordinating point of national European policy indirectly, via the national parliaments. If this is successful, it is reflected in the deliberations of the Council working parties and the Permanent Representatives Committee (Coreper), which prepares the Council decisions. Both the members of the working parties and the ambassadors in the permanent representations are bound to the instructions of their governments.

¹ See page 5.

² Neill Nugent, *The Government and Politics of the European Union*, (London: Macmillan Press), 152-153.

³ www.eu2007.de/en

In addition, direct influence on representatives of the member states is possible in the working parties, which, with good arguments, may suggest a change in position to their minister's office. The Council presidency is also of particular importance since the current incumbent Council presidency chairs every meeting – from working meetings to ministerial meetings.

3.3. NGO Lobbying during the British Presidency 2005

Preparatory to the United Kingdom's Council presidency during the second six months of 2005 the British environment ministry Defra¹ commissioned the environmental NGO Green Alliance and the Institute of European Environmental Policy (IEEP), a research organisation, with a project that was intended to establish a channel of communication between British environmental NGOs and the government during the presidency and also improve the coordination among environmental NGOs. During the run-up to the presidency seminars were held to inform British NGOs about the importance of the presidency and possibilities for exerting an influence. These "coordination seminars" were continued during the presidency, and close contact was maintained with the European Environmental Bureau (EEB)² and the "Green 10."³

The evaluation of this project contains many points that are also relevant for German NGOs during the presidency:

As a whole, it was established that the seminars leading up to the presidency were successful and were attended by many NGO representatives, although several important leading figures were missing. The evaluation meeting was taken seriously by Defra, and political leaders also attended. Unfortunately the number of NGO representatives was "less convincing."

The lack of participation on the part of NGOs during the presidency was criticised. Moreover, the NGOs who were active were divided into two camps during the process. The large international NGOs (Friends of the Earth, WWF, Greenpeace) showed a tendency to delegate all the work to their offices in Brussels and to neglect the British offices, which thus played a less influential role than they might have. The smaller and regional NGOs, on the other hand, lacked the resources to be able to be active at the EU level. The exceptions were "single-issue NGOs"⁴ such as NSCA and AEF, whose topics were on the agenda of the Council presidency. It was also criticised that the NGOs became absorbed in details and geared discussions mainly to individual priorities rather than jointly pursuing a key issue and incorporating the agenda of the presidency.

The goal of extending the dialogue beyond Defra to other ministries was not achieved, since the project was funded by Defra and therefore much of the time of the organiser, Green Alliance, was committed to this ministry. One alternative for the future could be to seek independent sponsors or to share the financing among several ministries.

With respect to the German presidency it was emphasized in the evaluation report that German NGOs would have more opportunities for agenda-setting than the British, since the revised EU sustainability strategy⁵ would be adopted in June 2006. One particularly important point is the further development of the climate protection agenda for the post-Kyoto period beginning in 2012. In addition, German NGOs could benefit from the British experience with a G8 presidency concurrent with the EU presidency.

Recommendations for NGOs That Want to Become Involved during a Presidency

- It is essential that NGOs get involved in the process cohesively, as early as possible and with definite priority issues that coordinate with the agenda of the Council presidency.
- It is advisable to concentrate more on special, interesting events, initiatives and partnerships – also with the government – than on broad topic areas.
- In order to be able to effectively exert pressure on EU institutions good cooperation between the NGOs and their offices in Brussels is essential (e.g. EEB, Friends of the Earth Europe, Transport & Environment.).
- Set ambitious targets – but have realistic expectations.
- "High politics" such as budget negotiations should not be forgotten in campaign planning.
- Without becoming too dependent, it is important to maintain good relations with officials in the ministries, in order to ensure the flow of first-hand information.

1 Department for Environment, Food and Rural Affairs.

2 European Environmental Bureau (www.eeb.org). Before the start of each presidency the EEB directs "10 Green Tests" on various environmental issues to the respective government and assesses the successes and failures of the presidency when it comes to an end. The tests and assessments are also published in the DNR's EU Newsletter.

3 The Green10 are the 10 large environmental NGOs that work at the EU level: www.eu-koordination.de ("Brussels NGOs").

4 Non-governmental organisations whose work essentially pertains to single issues – emission controls in the case of the National Society for Clean Air (NSCA) and air transport for the Aviation Environment Federation (AEF).

5 <http://register.consilium.europa.eu/pdf/en/06/st10/st10117.en06.pdf>
www.bmu.de/english/sustainability_globalisation/current/doc/35355.php

- Since the ministers have full schedules, particularly during the presidency, appointments should be fixed well in advance.
- Strategies, resources and priorities must be coordinated at the managerial/executive level of the concerned NGOs.
- Maintaining an informal flow of information during the presidency with an e-mail network or an electronic newsletter is recommended.
- The establishment of an NGO contact point and appointment of a secretariat to coordinate the activities of the NGO is vital for success.

The coordination of German environmental NGOs during the German presidency has been assumed by the German League for Nature and Environment (DNR – European Policy Coordination)¹.

3.4. Possibilities for Agenda-Setting during the German Presidency

Interview with Norbert Gorissen and Kai Schlegelmilch, EU Division of the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety²

"For the country concerned, holding the Council presidency is like working on a pipeline," says Norbert Gorissen, Commissioner for European Affairs with the German Environment Ministry in an interview with the editors. A constant stream of dossiers circulating at the EU level flows through this pipeline. At particular points in time during the Council presidency the flow can be slowed down or speeded up a little with the controls on the pipeline, or something can be input or withdrawn. Nevertheless, Gorissen regards these possibilities of influencing the pipeline – i.e. the agenda – during the Council presidency as extremely limited for various reasons, since the work of the presidency is dependent on the dossiers that are already on the table.

This situation is influenced by three points in particular, according to Gorissen. First, the EU Commission must have submitted a legislative proposal, at least in the areas in which it has the sole right of initiative. Second, it is important when the European Parliament begins its reading, in order to be able to estimate the possible timing of the voting. For example, Austria, which held the presidency until 30 June 2006, could not bring the dossier on the issue of air quality to a close, since the first reading in the Parliament did not take place until autumn of 2006. Third, outstanding dossiers from the previous presidency must often be completed.

In order to influence the first point, says Gorissen, one can only try to persuade the Commission beforehand through informal conversations to give certain issues a higher priority and thus complete proposed legislation or other initiatives in the Commission ahead of schedule. Furthermore, the presidency may place topics that are important to it on the Council agenda under the item "Any other business." The resulting Council conclusions, agreed on consensually, are quasi-political mandates that indicate to the Commission which topics it should begin with. These are essentially the only possibilities for influencing the agenda of the Council presidency.

Gorissen points out in particular that the presidency has, above all, a mediating role, so the point is not to assert its own national interests. As a mediator one must be even more neutral than usual, since only with a majority of the member states on board can an overall consensus, which is always in the foreground, be achieved.

For example, that is why it was so important that a compromise on the EU budget was reached during the British presidency, adds Kai Schlegelmilch, Advisor in the EU Division of the Environment Ministry. In this situation the British were compelled to strive for a consensus and not hold on to their UK rebate.³

Contact

Norbert Gorissen, Kai Schlegelmilch, Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU),
EU Division KI II 2, Berlin, Germany
Tel. +49 30 / 18 305-2320, -2327, Fax -3338
E-mail: norbert.gorissen@bmu.bund.de, kai.schlegelmilch@bmu.bund.de
www.bmu.de/europa

¹ European Coordination: see legal notice or www.eu-koordination.de

² Text based on an interview by the editors with Norbert Gorissen, Commissioner for European Affairs with the Federal Environment Ministry (BMU), and Kai Schlegelmilch, Advisor in the EU Division of the Environment Ministry, in 2006.

³ See www.euractiv.com/en/agenda2004/eu-pulls-back-abyss/article-151032

UK Rebate: Regulation which grants the United Kingdom a special financial status in the EU budget: www.en.wikipedia.org/wiki/UK_rebate

3.5. Unapproachable Colossus or Missed Opportunity?

Guest article by Jochen Roose, Department of Sociology, Free University Berlin¹

The EU as Chance for Environmental Political Activity

It is difficult for environmental organisations to promote their interests at the European level. As sweeping as this statement sounds, it is nevertheless correct in its broadness. Only upon closer examination and consideration of smaller successes and diverse efforts do differences become obvious. Of course, it must be kept in mind that environmental organisations also find it difficult to assert themselves at other political levels as well. Environmental groups have never been able to muster the power of the pharmaceutical lobby, for example, and this comparison will continue to be valid in the future. Nevertheless, the political activity of associations at the European level is comparatively insignificant. Although environmental policy is influenced by Europe or even ultimately determined at the European level in broad sectors, the political activity of German environmental associations is still concentrated for the most part at the national level.

But what is the problem? Why is it so difficult for German environmental organisations – although not only them – to make themselves heard at the European level? Under what conditions do opportunities for political influence present themselves? In the following I would like to outline, from the perspective of an academic observer, where I see structural opportunities and obstacles for environmental political activity. My arguments are based on a survey of national environmental organisations in Germany and the United Kingdom.²

The Myth of Complicated Institutions

The explanation generally given for concentrating on the national rather than the European level is that the EU is incredibly complicated. There are a multitude of institutions, decision-making procedures are complex and they vary depending on policy area, sometimes even within a policy area. In the end no one can understand it and political work becomes virtually impossible.

This argument hardly stands up to closer examination, however. There is no question that EU institutions are complex; the Commission, the Council and the European Parliament are involved in decision-making and there are a number of different procedures. Yet this does not suffice as a rationale. Environmental associations also deal with an intricate institutional structure at the national level. In Germany as well, the Federal Government, the Bundestag and the Bundesrat are involved in many decisions, and even at the national level decision-making procedures are often complicated. Who really has a clear view of which legislation the Bundesrat can block with its majority and which it can only delay? The debates on federalism reform have drawn attention to the fact that German politics are also entangled and non-transparent. Environmental associations have by no means been prevented from promoting their interests as a result, however.

The Many Voices of the EU

The argument that the EU is complex cannot be dismissed entirely, but it is important to be aware that it is not only a question of institutions and decision-making procedures. Different languages, different political and negotiating styles, different environmental problems and different expectations of environmental protection come together in the EU. The cultural diversity of the EU makes environmental policy complicated as well.

The polyphony of voices also applies to the reporting in the EU, however. Unlike the national context, there is no Europe-wide mass media that regularly reports on the views of the people in Europe and on EU policy. The upshot is a major information gap. Although EU institutions are no more complicated than the German government, we are far less informed about them because the daily newspaper does not provide us with the necessary knowledge. The EU Newsletter has tried to counteract this information gap for many years but cannot compensate for it entirely.

From Many Voices to Unanimity

The multi-voiced texture of the EU is not only a problem for environmental organisations. The same applies to the EU staff, particularly in the Commission. It is not easy for the Commission to have a clear view of the development of opinion, the problems and possible solutions throughout the entire EU. Associations, including environmental organisations, are often consulted as information sources. Reliable, critically evaluated information, even if it obviously comes from an interested source, is definitely considered helpful.

¹ Dr. Jochen Roose is a research assistant at the Free University Berlin, Department of Sociology. He works in the areas of the environmental movement and Europeanisation.

² For the results of the study see: Jochen Roose, *Die Europäisierung von Umweltorganisationen - Die Umweltbewegung auf dem langen Weg nach Brüssel* [The Europeanisation of Environmental Organisations – The Environmental Movement on the Long Road to Brussels], (Wiesbaden: Westdeutscher Verlag, 2003). (No longer available from the publisher; may be ordered from the author for 10 euros plus shipping charges; see address below).

► The problem lies precisely in the exploitation of this polyphony of voices, however – for associations as well. Standpoints can become influential if they in fact address European problems, if they represent positions coordinated Europe-wide. Promising EU work is thus closely linked to European cooperation. Only someone who can claim to act on the European level and be part of a European network will be listened to in the EU. That is why it is important for national associations to be organised at the European level and to participate in existing European networks. It is scarcely necessary to point out that this not only takes money but patience, negotiating skills and willingness to compromise as well. The path of European cooperation is not easy and the crises that the EU suffers as a whole also threaten the European networks of national associations.

The European Council

If we turn our attention from the European Commission to the Council and the individual Councils of ministers, the situation looks somewhat different. In the Council, which debates, may amend and essentially adopts Commission proposals, the national governments (as a rule) represent their national interests. Nevertheless, the governments must decide jointly.

► Coordinated lobbying by environmental organisations in the national governments of the various EU countries can influence the outcome in the Council. Here again, one key lies in cooperation, in coordinated action.

The Council is instrumental in decision-making, but in the formulation of policy, i.e. drafting of regulations and directives, it plays a minor role. At the meetings of the various departmental ministers from the 27 member states, constructive debates are hardly possible. The important discussions and decisions take place beforehand; by the same token, the target group of political activity must also be different. The permanent representatives of the national governments in Brussels are very important in the preparation of Council decisions. When the ministers meet, the die has, as a rule, already been cast.

The Council Presidency

This criticism does not apply to the Council presidency, however. The presidency has the possibility of selecting topics and shifting others into the background. Especially in a body such as the Council, which because of its composition and size is scarcely able to discuss freely and constructively, the choice of topics is very important. Projects may be delayed or push-started by the presidency.

► The national associations in the country that assumes the presidency are consulted concerning the presidency. As a result, German environmental organisations have a special responsibility during the first six months of 2007. They have experience in dealing with the German government and must exploit their channels accordingly, particularly in the area of European policy. This work is only promising, however, if it comes from a European perspective. Only European interests have a chance of being promoted during the presidency. Thus, the same principle applies to work with the European Council and the presidency: Europe-wide cooperation with common interests and positions is the key to success – even if it is not easy. ■

Contact

Dr. Jochen Roose, Department of Sociology, Free University Berlin,
Garystr. 55, Room 315, 14195 Berlin, Germany
Tel. +49 30 / 838-54034, Fax -57652
E-mail: jroose@zedat.fu-berlin.de
www.jochenroose.de

3.6 How to Tackle "Your Own" EU Presidency

Markus Steigenberger and Bjela Vossen, German League for Nature and Environment (DNR), European Policy Coordination Office, Berlin

Holding the presidency of the European Union is always a "big thing" for every government. Depending on experience, size and attitude of the country, the government might see it as a chance to push its own agenda, to gain a European-wide reputation or to be able to contribute seriously to the process of European integration. Or it can be seen as a huge burden – considering the fact that one has to organise and facilitate dozens of meetings and processes.

► For NGOs the situation is slightly different. They do not really have anything to lose, but a lot to gain. Usually, NGOs see the presidency of their own country as a great opportunity to raise awareness for their topics and put forward their own demands. They consider their government to be highly influential on the European level and they expect quite a lot from it. Easy to imagine that this bears a high risk of frustration. NGOs in more than one country have had to learn that EU presidencies work according to their own rules and that influencing this process demands some specific knowledge and thinking. This article summarizes the common experiences of NGO activities during some of the last EU presidencies. Most examples stem from the German presidency during the first six months of 2007 – but we believe that similar things have happened in every country and will happen many times in the future. We hope that it will be useful for all the presidencies that are to come.

Lesson 1: What say does your government have during its presidency?

One sentence you do not want to hear from your government a few weeks after the presidency has started is the following: "We are only the facilitator, therefore we have to stay neutral and cannot influence the process." This is not completely wrong, of course. The most important task of a presidency is to organize and moderate the policy processes. And a good facilitator has to be neutral, indeed. But this does not mean that presidencies do not defend their own national interests anymore. In fact, some governments seem to have a tendency to forget this noble attitude of neutrality when issues come on the table that they really care about. The German government, for example, was so irritated by a proposal of the European Commission to restrict the CO₂ emissions of cars that within 2½ days three ministers and the Chancellor expressed at least three different opinions in the media – to the confusion of the rest of Europe.

But the presidency has another, much more powerful task. It sets the agenda of every single Council meeting. Therefore, the government is able to speed up the processes it favours and postpone those issues that it feels uncomfortable with. Not for long, of course – in six months the next government takes over – but at least for this time they can significantly influence policy processes.

Lesson 2: Get up early if you want to influence the agenda.

There is not only one agenda for your presidency. There are at least three! Since 2006 three governments have been writing a joint 18-month agenda. The Germans, Portuguese and Slovenians have already worked in a "tripartite group." The French, Czechs and Swedes will be next. Additionally, every single country writes its own 6-month agenda. And on top of this, there are many topics on the agenda anyway – determined by European rules – so it is not easy to influence the agenda. The best angle is probably your own government's 6-month agenda. Every government wants a visible project, something that will be remembered in the future. So politicians devote a lot of effort to setting their own agenda. Expect them to have the main discussions at least half a year before the presidency starts. Usually the agenda is finally set two or three months in advance at the latest. Minor changes in the last weeks are only due to delays during the previous presidency.

Lesson 3: Once there is an agenda, stick to it.

An EU presidency is a fantastic hook for your own issues. Whatever you are working on, you can link it to the fact that your government is in charge of the presidency. You can start every media release by saying, "We are asking our government to use its current EU presidency to ...". And you can be sure that everybody else will do the same. No matter if the issue is linked to the agenda of the presidency or not.

It seems that this game is inevitable. It has happened everywhere, and it will probably always happen. But it does not really make sense. On the contrary, it harms you, because you are showing your government and the media very clearly that you do not understand how the European Union works and what the role of a presidency is.

Lesson 4: If possible, join forces with your NGO colleagues.

NGOs are usually very diverse, and this is good. But an EU presidency is a complex issue. Working on it is difficult and time-consuming. And you only have six months to achieve your goal. So if you are able to coordinate the NGO work, to agree on a small (!) set of common topics, goals and demands, and if you manage to do this before your presidency starts, this can really make your work easier and the outcome more effective. To get to this stage, you could invite your colleagues for a conference or a series of seminars to prepare for the presidency. Writing a joint position paper might be a good idea as well. It helps in two ways. First, it shows your government that you are watching their activities. And second, the process of writing the paper itself

helps enormously to make your colleagues aware of the upcoming presidency and forces them to cooperate. Again, start as early as possible. In Germany it took more than half a year to raise awareness within the NGO community. Speed up when you know what is on the agenda.

Lesson 5: Make use of the media interest in EU issues.

The media loves presidencies. In fact, there is hardly any other time when you can bring EU-related (that usually means complicated) environmental topics into the public eye. You can reach a much wider audience than usual. Take this opportunity! But you will not be the only one. Again, everybody will suddenly start talking about the presidency and what it should be good for. If you want to be heard, you will need a double strategy. First of all, you should know the agenda (see above). It is difficult to create your "own media moments" but easier to use big events for your message, like the beginning of the presidency or the summits. Be precise in your media releases and write background papers that not only include your policy text but also teach people how the EU works. But be careful – even if nobody really understands the EU, hardly anybody wants to admit it. If you can add some additional insight or a nice story from Brussels, journalists will be happy. Secondly, you should be creative in your media work. In Germany, journalists wrote stories about our office just because they wanted to show somebody who "has to do with the EU every day." Another report was about a group of young volunteers who did a monitoring of the EEB's Ten Green Tests. They were interviewed only because they were younger than 25 and interested in the EU... Always bear in mind, the media need people and pictures, not only directives and green papers.

Lesson 6: Ensure information flow to and from Brussels.

For the six months of your presidency, your capital and Brussels will be the centre of EU policy. Therefore, communication with NGO people in Brussels will be absolutely crucial. You will have some information from your government that they do not have, and they always have some ideas and information you can use. Having the right information will be your big advantage vis-à-vis the media and your government. With modern communication technology, nothing is easier than staying up to date, but this should not prevent you from travelling to Brussels to meet people face to face. A well functioning network is the biggest NGO advantage – use it!

Lesson 7: Establish good contacts with your government.

It is definitely important to establish good contacts with relevant people in your government. If you have a close relationship, you might get important information, and they will be open to your opinions. Therefore, you should contact them long before your presidency starts and keep up the communication throughout the whole six months. For government representatives these six months will be quite a busy time, so be a bit patient with them 😊 and arrange meetings well in advance.

Lesson 8: Start your funding as early as possible.

Joint NGO work during your presidency is very useful but costs extra money. Try to raise additional funding for your work on the presidency, and do it in good time. The situation is not as comfortable everywhere as it is in Germany, where the German League for Nature and Environment (DNR) already established a European Policy Coordination Office 15 years ago.

And finally: aim high, but be realistic in what you can achieve – it is only a presidency.

Good luck! ■

Contact

Markus Steigenberger, Bjela Vossen, German League for Nature and Environment (DNR), European Policy Coordination Office, Prenzlauer Allee 230, 10405 Berlin, Germany

Tel. +49 30 / 443391-86, -85

Fax +49 30 / 443391-80

E-mail: markus.steigenberger@dnr.de, bjela.vossen@dnr.de

www.eu-koordination.de