

EUROPEAN UNION

TREATIES & BODIES

UN & EU Mechanisms of Protection and Organizing Campaigns

Training Course : April 03-10, 2005

Decision-making in the European Union

Decision-making at EU level involves a number of institutions, in particular:

- ❖ the European Commission
- ❖ the European Parliament
- ❖ the Council of the European Union

The European Commission proposes new legislation, but it is the Council and Parliament that pass the laws

decision-making



Treaties



"legal basis" of the legislation.

The Legal Basis

1991

Council Resolution on Human Rights, Democracy and development



- Respecting, promoting and safeguarding human rights is an essential part of international relations and one of the cornerstones of European co-operation as well as of relations between the Community and its Member States and other countries.

1991

The Luxembourg European Council



- Adopted a declaration on HR that established the principles and the main features of a political platform actively promoting HR and democratic principles.

The Legal Basis

1993

World Conference on Human Rights (Vienna)



- The EU takes universality of human rights, as reaffirmed by the Conference as a central principle which guides its actions
- Based on the declaration adopted during the Conference, the EU considers the promotion and protection of HR in the world as a legitimate concern of the international community.

1993

Maastricht Treaty on European Union (TEU)



- **Article J1 (2):** "to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms" are amongst the objectives of the common foreign and security policy of the EU

The Legal Basis

1995

Commission Communications to the Council and the European Parliament



- The inclusion of respect for democratic principles and HR in agreements between the Community and third countries (May 95)
- The EU and the External Dimension of HR Policy: from Rome to Maastricht and beyond (November 95)



Framework for all European Union activities in the area of human rights.

Set out strategies aimed at enhancing the consistency and effectiveness of the human rights and democratisation approach of the European Union.

Since the Council decision of May 95

▲ Human Rights clause included in all negotiated bilateral agreements

The Legal Basis

1999
The Amsterdam Treaty



- Marks another significant step forward in integrating human rights into the legal order of the EU.
- Inserts a new article 6 in the Treaty on European Union, which reaffirms that the EU *'is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States'*

2000
The Nice Summit



EU Charter of Fundamental Rights

- Commission's action in the field of external relations will be guided by compliance with the rights and principles contained in the Charter.

The Legal Basis

EP's initiative to create the EIDHR - 1994

to bring a series of Budget headings specifically dealing with the promotion of human rights together in a chapter of their own (B7-70)



to give substance to the EU's commitment to protect and promote human rights

A New Legal Basis - 1999

Regulations 975/99 and 976/99 adopted by European Council

→ legal basis for all human rights and democratisation activities



The Regulations valid from 1999 to 2004

Total Budget ⌘ 260 million €
(N.B. Total Annual Budget ⌘ 15 Billion €)

Three Main Procedures for Enacting New EU Laws

➤ Co Decision

➤ Consultation

➤ Assent

Co Decision

Parliament and the Council Share Legislative Power

- The Commission sends its proposal to both institutions.
- They each read and discuss it twice in succession. If they cannot agree on it, it is put before a "*conciliation committee*", composed of equal numbers of Council and Parliament representatives. Commission representatives also attend the committee meetings and contribute to the discussion.
- Once the committee has reached an agreement, the agreed text is then sent to Parliament and the Council for a third reading, so that they can finally adopt it as law.

Areas Covered by the Co Decision Procedure

- non-discrimination on the basis of nationality
- the right to move and reside
- the free movement of workers
- social security for migrant workers
- the right of establishment
- transport
- the internal market
- employment
- customs co-operation
- the fight against social exclusion
- equal opportunities and equal treatment
- implementing decisions regarding the European Social Fund
- education

Areas Covered by the Co Decision Procedure

- vocational training
- culture
- health
- consumer protection
- trans-European networks
- implementing decisions regarding the European Regional Development Fund
- research
- the environment
- transparency
- preventing and combating fraud
- statistics
- setting up a data protection advisory body

Co Decision

Parliament and the Council Share Legislative Power

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Consultation

Parliament Only

Under the consultation procedure, the Commission sends its proposal to both the Council and Parliament but it is the Council that officially consults Parliament and other bodies such as the “Economic and Social Committee” and the “Committee of the Regions”, whose opinions are an integral part of the EU's decision-making process.

- *In some cases, consultation is compulsory because the legal basis requires it and the proposal cannot become law unless Parliament has given its opinion.*
- *In other cases consultation is optional and the Commission will simply suggest that the Council consult Parliament.*

Consultation

Parliament Only

In all cases, Parliament can:

- approve the Commission proposal
- reject it
- or ask for amendments

Consultation

Parliament Only

- If Parliament asks for amendments, the Commission will consider all the changes Parliament suggests. If it accepts any of these suggestions it will send the Council an amended proposal.
- The Council examines the amended proposal and either adopts it as it is or amends it further. In this procedure, as in all others, if the Council amends a Commission proposal it must do so unanimously.

Areas Covered by the Consultation Procedure

- Police and judicial cooperation in criminal matters
- Revision of the Treaties
- Discrimination on grounds of sex, race or ethnic origin, religion or political conviction, disability, age or sexual orientation
- EU citizenship
- Agriculture
- Visas, asylum, immigration and other policies associated with the free movement of persons
- Transport (where it is likely to have a significant impact on certain regions)
- Competition rules
- Tax arrangements
- Economic policy
- "Enhanced co-operation" - i.e. the arrangement allowing a group of member states to work together in a particular field even if the others do not wish to join in yet.

Assent

- The assent procedure means that the Council has to obtain the European Parliament's assent before certain very important decisions are taken.
- The procedure is the same as in the case of consultation, except that Parliament cannot amend a proposal: it must either accept or reject it. Acceptance ("assent") requires an absolute majority of the vote cast.

Areas Covered by the Assent Procedure

- specific tasks of the European Central Bank
- amending the statutes of the European System of Central Banks/ European Central Bank
- the Structural Funds and Cohesion Funds
- the uniform electoral procedure for the European Parliament
- certain international agreements
- the accession of new member states

The European Parliament

The members of the European Parliament (MEPs) sit not in national blocks but in Europe-wide political groups that bring together all the main political parties operating in the EU member states.

- *TABLE: Number of seats per political group, as at 1 April 2003.*

The European Parliament

Political group	Abbreviation	No. of seats
European People's Party (Christian Democrats) and European Democrats	EPP-ED	232
Party of European Socialists	PES	175
European Liberal, Democrat and Reformist Party	ELDR	52
European United Left/Nordic Green Left	EUL/NGL	49
Greens/European Free Alliance	Greens/EFA	44
Union for Europe of the Nations	UEN	23
Europe of Democracies and Diversities	EDD	18
Non-attached	NA	31
TOTAL		624

The European Parliament

- The Parliament's origins go back to the 1950s and the founding treaties. Since 1979, MEPs have been directly elected by the citizens they represent.
- Parliamentary elections are held every five years, and every EU citizen who is registered as a voter is entitled to vote. So Parliament expresses the democratic will of the Union's 374 million citizens, and it represents their interests in discussions with the other EU institutions.
- In 2004, Josep Borrell Fontelles was elected President of the European Parliament.

The European Parliament

Number of seats per country (in alphabetical order according to the country's name in its own language)

Country	1999-2004	2004-2007	2007-2009
Belgium	25	24	24
Bulgaria	-	-	18
Cyprus	-	6	6
Czech Republic	-	24	24
Denmark	16	14	14
Germany	99	99	99
Greece	25	24	24
Spain	64	54	54
Estonia	-	6	6
France	87	78	78
Hungary	-	24	24
Ireland	15	13	13
Italy	87	78	78
Latvia	-	9	9

Country	1999-2004	2004-2007	2007-2009
Lithuania	-	13	13
Luxembourg	6	6	6
Malta	-	5	5
Netherlands	31	27	27
Austria	21	18	18
Poland	-	54	54
Portugal	25	24	24
Romania	-	-	36
Slovakia	-	14	14
Slovenia	-	7	7
Finland	16	14	14
Sweden	22	19	19
United Kingdom	87	78	78
(MAX) TOTAL	626	732	786

Where is the Parliament Based?

- The European Parliament works in France, Belgium and Luxembourg.
- The monthly plenary sessions, which all MEPs attend, are held in Strasbourg (France) - the Parliament's "seat". Parliamentary committee meetings and any additional plenary sessions are held in Brussels (Belgium), whilst Luxembourg is home to the administrative offices (the "General Secretariat").

What Does the Parliament Do?

The Parliament has three main roles:

- It shares with the Council the power to legislate. The fact that it is a directly-elected body helps guarantee the democratic legitimacy of European law.
- It exercises democratic supervision over all EU institutions, and in particular the Commission. It has the power to approve or reject the nomination of Commissioners, and it has the right to censure the Commission as a whole.
- It shares with the Council authority over the EU budget and can therefore influence EU spending. At the end of the procedure, it adopts or rejects the budget in its entirety.

How is the Parliament's Work Organized?

Parliament's work is divided into two main stages:

- Preparing for the plenary session. This is done by the MEPs in the various parliamentary committees that specialise in particular areas of EU activity. The issues for debate are also discussed by the political groups.
- The plenary session itself. Plenary sessions, attended by all MEPs, are normally held in Strasbourg (one week per month) and sometimes in Brussels (two days). At these sessions, Parliament examines proposed legislation and votes on amendments before coming to a decision on the text as a whole.

Other items on the agenda may include Council or Commission "communications" or questions about what is going on in the European Union or the wider world.

The Council of the European Union

- The Council is the EU's main decision-making body. Like the European Parliament, the Council was set up by the founding treaties in the 1950s. It represents the member states, and its meetings are attended by one minister from each of the EU's national governments. If, for example, the Council is to discuss environmental issues, the meeting will be attended by the Environment Minister from each EU country and it will be known as the "Environment Council".
- The EU's relations with the rest of the world are dealt with by the "General Affairs and External Relations Council". But this Council configuration also has wider responsibility for general policy issues, so its meetings are attended by whichever Minister or State Secretary each government chooses.

The Council of the European Union

Altogether there are nine different Council configurations:

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

Nevertheless, the Council remains one single institution

What Does the Council Do?

The Council has six key responsibilities:

1. To pass European laws. In many fields it legislates jointly with the European Parliament
2. To coordinate the broad economic policies of the member states
3. To conclude international agreements between the EU and one or more states or international organizations
4. To approve the EU's budget, jointly with the European Parliament
5. To develop the EU's Common Foreign and Security Policy (CFSP), based on guidelines set by the European Council
6. To coordinate co-operation between the national courts and police forces in criminal matters

What Does the Council Do?

To provide political control and strategic direction in a crisis, the European Council (Nice, December 2000) decided to establish new permanent political and military structures within the Council of the European Union.

These new structures are:

- the Political and Security Committee (PSC)
- the European Union Military Committee (EUMC)
- the European Union Military Staff (EUMS), composed of military experts seconded to the Council Secretariat by the member states.

*The EUMS is under the military direction of the EUMC, which it assists

How is the Council's Work Organized?

➤ COREPER

In Brussels, each EU member state has a permanent team ("representation") that represents it and defends its national interest at EU level. The head of each representation is, in effect, his or her country's ambassador to the EU.

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

How is the Council's Work Organized?

➤ The Council Presidency

The Presidency of the Council rotates every six months. In other words, each EU country in turn takes charge of the Council agenda and chairs all the meetings for a six-month period, promoting legislative and political decisions and brokering compromises between the member states.

* It is for the period 2003-2006 is as follows:

How is the Council's Work Organized?

➤ The Council Presidency

2003	First half of the year:	Greece
	Second half of the year:	Italy
2004	First half of the year:	Ireland
	Second half of the year:	Netherlands
2005	First half of the year:	Luxembourg
	Second half of the year:	United Kingdom
2006	First half of the year:	Austria
	Second half of the year:	Finland

How is the Council's Work Organized?

➤ The General Secretariat

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

The Secretary-General is assisted by a Deputy Secretary-General in charge of managing the General Secretariat.

The European Commission

The Commission is the politically independent institution that represents and upholds the interests of the EU as a whole. It is the driving force within the EU's institutional system: it proposes legislation, policies and programs of action and it is responsible for implementing the decisions of Parliament and the Council.

Like the Parliament and Council, the European Commission was set up in the 1950s under the EU's founding treaties.

Who are the Commission?

- The term “Commission” is used in two senses:
 - First, it refers to the Members of the Commission – i.e. the team (“college”) of men and women appointed by the member states and Parliament to run the institution and take its decisions.
 - Secondly, the term “Commission” refers to the institution itself and to its staff.

- A new Commission is appointed every five years, within six months of the elections to the European Parliament. The procedure is as follows:
 - The member state governments agree together on who to designate as the new Commission President.
 - The Commission President-designate, in discussion with the Member State governments, chooses the other Commission members.
 - The new Parliament then interviews and gives its opinion on the entire “college”. If approved, the new Commission can officially start work the following January.

Where is the Commission Based?

The "seat" of the Commission is in Brussels (Belgium), but it also has offices in Luxembourg, representations in all EU countries and delegations in many capital cities around the world.

What Does the Commission Do?

The European Commission has four main roles:

1. to propose legislation to Parliament and the Council;
2. to manage and implement EU policies and the budget;
3. to enforce European law (jointly with the Court of Justice)
4. to represent the European Union on the international stage, for example by negotiating agreements between the EU and other countries.

How is the Commission's Work Organized?

1. Commission President

- decide which commissioner will be responsible for which policy area
- reshuffle these responsibilities (if necessary)
- demand a commissioner's resignation

2. The “college” of commissioners meets once a week, usually on Wednesdays in Brussels. Each item on the agenda is presented by the commissioner responsible for that policy area, and the college takes a collective decision on it. The Commission's staff is organized into departments, known as “Directorates-General” (DGs) and “services” (such as the Legal Service). Each DG is responsible for a particular policy area and is headed by a Director-General who is answerable to one of the commissioners. It is the DGs that actually devise and draft the Commission's legislative proposals, but these proposals become official only when “adopted” by the College at its weekly meeting.

The Court of Justice

- It was set up in 1952 under the Treaty of Paris (establishing the European Coal and Steel Community).
- Its job is to ensure that EU legislation
- It has the power to settle legal disputes between member states, EU institutions, businesses and individuals.

The Court of Justice

- The Court is composed of one judge per member state, but for the sake of efficiency the Court will be able to sit as a "Grand Chamber" of just 11 judges instead of always having to meet in a plenary session attended by all the judges.
- The Court is assisted by eight "advocates-general". Their role is to present reasoned opinions on the cases brought before the Court. They must do so publicly and impartially.
- The judges and advocates-general are either former members of the highest national courts or highly competent lawyers who can be relied on to show impartiality. They are appointed by joint agreement of the governments of the member states. Each is appointed for a term of six years, after which they may be reappointed for one or two further periods of three years.

The Court of Justice

- To help the Court of Justice cope with the thousands of cases brought before it, and to offer citizens better legal protection, a "Court of First Instance" was created in 1989. This Court (which is attached to the Court of Justice) is responsible for giving rulings on certain kinds of case, particularly actions brought by private individuals and cases relating to unfair competition between businesses.
- The Court of Justice and the Court of First Instance each have a President, chosen by their fellow-judges to serve for a term of three years.

What Does the Court Do?

The Court gives rulings on cases brought before it. The four most common types of cases are:

1. requests for a preliminary ruling
2. proceedings for failure to fulfill an obligation
3. proceedings for annulment
4. proceedings for failure to act

How is the Court's work organized?

- Cases are submitted to the registry and a specific judge and advocate-general are assigned to each case.
- The procedure that follows is in two stages: first a written and then an oral phase.
 1. **First stage:** all the parties involved submit written statements and the judge assigned to the case draws up a report summarizing these statements and the legal background to the case. From this report, the advocate-general assigned to the case draws his or her conclusions. In the light of these conclusions, the judge draws up a draft ruling which is submitted to the other members of the Court for examination.
 2. **Second stage - public hearing.** In principle, this takes place before the whole Court (in "plenary session"), but hearings can also take place before chambers of three or five judges, depending on the importance or complexity of the case. At the hearing, the parties' lawyers put their case before the judges and the advocate-general, who can question them. The advocate-general then gives his or her conclusions, after which the judges deliberate and deliver their judgment. Judgments of the Court are decided by a majority and pronounced at a public hearing. Dissenting opinions are not expressed.

The European Ombudsman

- ❖ The position of European Ombudsman was created by the Treaty on European Union (Maastricht, 1992).
- ❖ The Ombudsman acts as an intermediary between the citizen and the EU authorities.
- ❖ He is entitled to receive and investigate complaints from EU citizens, businesses and institutions, and from anyone residing or having their legal domicile in an EU country.
- ❖ The Ombudsman is elected by the European Parliament for a renewable term of five years, which corresponds to Parliament's legislative term.

What Does the Ombudsman Do?

He helps to uncover "maladministration" in the European institutions and other EU bodies.

The Ombudsman can make recommendations to the EU institutions and may refer a matter to the European Parliament so that it can take whatever political action is necessary.

What Does the Ombudsman Do?

Examples of maladministration are:

- unfairness,
- discrimination,
- abuse of power,
- lack or refusal of information,
- unnecessary delay,
- incorrect procedures.

The Ombudsman operates completely independently and impartially. He does not request or accept instructions from any government or organization. Moreover, during his term of office, he may not exercise any other professional activity, either paid or unpaid.

Mr Nikiforos Diamandouros took over the post of Ombudsman in April 2003.

How Do I Complain to the Ombudsman?

➔ *If you live in the European Union (or you are an institution or business based in the EU), and if you think you have been the victim of maladministration by an EU institution or body,*

1. contact that institution or body through the usual administrative channels and try to get them to put the situation right.

➔ *If that approach fails, you can complain to the European Ombudsman.*

How Do I Complain to the Ombudsman?

2. You must make your complaint to the Ombudsman within two years of the date on which you became aware of the act of maladministration.

3. You must clearly state who you are and what you are complaining about, though you may ask for the complaint to remain confidential.

➔ *If necessary, the Ombudsman can advise you to approach another authority.*

➔ *The Ombudsman will not investigate your complaint if the alleged facts are, or have been, the subject of a court case.*

How is the Ombudsman's Work Organized?

1. The Ombudsman carries out investigations on his own initiative or following a complaint.
2. The EU institutions and bodies are obliged to provide the Ombudsman with any information he requests and to give him access to the relevant files. (*They can refuse to do so only on justified grounds of confidentiality*).
3. If the Ombudsman discovers a case of maladministration, he informs the institution concerned and makes draft recommendations. The institution concerned has three months to give its detailed opinion on the matter.
4. The Ombudsman then submits a report to the European Parliament and to the institution concerned. He also lets the complainant know the outcome of the investigations.

Every year, the Ombudsman gives the European Parliament a report on all his investigations.

The European Data Protection Supervisor

- The position of European Data Protection Supervisor (EDPS) was created in 2001 under Article 286 of the European Community Treaty.
- The responsibility of the EDPS is to make sure that EU institutions or bodies respect people's right to privacy when processing their personal data.
- The Supervisor and an Assistant Supervisor are appointed by the European Parliament and the Council of the European Union, for a renewable term of five years.

Also ...

- The European Central Bank *(1998, under the Treaty on European Union)*
- The Executive Board
- The Governing Council
- The European Investment Bank *(1958 by the Treaty of Rome)*
- The European Investment Fund *1994*
- The European Economic and Social Committee
(1957 under the Treaty of Rome)

Also ...

➤ The Committee of the Regions

(1994 under the Treaty on European Union "Maastricht")

➤ Office for Official Publications of the European Communities *(1969)*

➤ European Communities Personnel Selection Office

(July 2002)

➤ European Community Agencies

➤ Agencies of the Common Foreign and Security Policy

(16 July 2001)

➤ Agencies for Police and Judicial Co-operation in criminal matters *(1999 & 2002 respectively)*