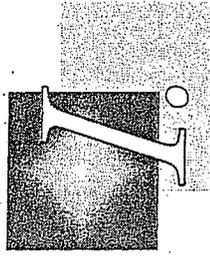


# Council Guide

*I. The Presidency Handbook*



February 2006

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## FOREWORD

The tasks of the Council are neither simple nor static. Hence the need to facilitate the work of the Presidency and delegations with an up-to-date handbook that is both comprehensive and comprehensible.

This third edition of the *Council Guide* presented by the General Secretariat was compiled under its sole responsibility; it has no legal force and is an internal document intended solely as an aid for the Presidency and Member State delegations.

The guide covers the whole range of Council activities. It consists of four sections each published separately. The first section – the Presidency Handbook – continues the operation begun with the Presidency vademecum and sets out in a practical context the arrangements concerning the preparation and running of a Presidency. The second section consists of Comments on the Council's Rules of Procedure, reflecting the current interpretation of that text in practice. The third section – the Delegates' Handbook – contains practical information on the planning and running of meetings, the internal organisation of the General Secretariat and the services provided for delegates. The fourth section – the Co-decision Guide – explains the co-decision procedure.

My wish, in making this version of the *Council Guide* available to those involved in the work of our Institution, has been to satisfy the request voiced by the Council and to contribute towards efforts to ensure information and transparency. Any suggestions concerning the content of this guide will be welcome.

Secretary-General/High Representative  
Javier Solana

**Part I**

**Presidency Handbook**

## Chapter I – General

### 1. Sources

The Treaty on European Union (TEU) and the Treaties establishing the two European Communities contain a number of provisions dealing with the role of the Council Presidency and the conditions in which it is exercised.

Article 203 of the Treaty establishing the European Community (TEC)<sup>1</sup> stipulates that the office of President shall be held in turn by each Member State for a term of six months in the order decided unanimously by the Council. The order was determined by a Council decision of 1 January 1995<sup>2</sup>. The European Council agreed in October 2002 that this rotation order would continue until the end of 2006 – i.e. until the Finnish presidency – and that the Council would decide on the question of the order of Presidencies for 2007 and onwards as soon as possible and at the latest by May 2005. In December 2005, the Council formally adopted the new list of Presidencies, reproduced in Annex 1 (doc. 15256/05). The sequence of Presidencies is decided by the Council acting unanimously. Article 204 TEC states that the Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission. Other Articles specify the role of the Presidency by field or sector. The Presidency's overall role, inherent in the office, is not described by the Treaty.

In the field of economic policy, the second subparagraph of Article 99(4) TEC assigns certain tasks to the President of the Council (reporting to the European Parliament on the results of multilateral surveillance, explaining the Council's recommendations on the broad guidelines of the economic policies of the Member States and of the Community to European Parliament committees).

<sup>1</sup> See also Article 116 of the Euronorm Treaty.

<sup>2</sup> (J J L 1 1995, p. 220, amended by a Decision of 28 January 2002 which switched the order of the Finnish and German presidencies (Finland in the second semester of 2006 and Germany in the first semester of 2007) (OJ L 39, 9.2.1992, p. 17).

For the common foreign and security policy (CFSP), Article 18 TEU lays down the responsibilities of the Presidency (representing the Union in matters coming within the CFSP; implementing decisions taken, expressing positions of the Union in international organisations and international conferences). Article 21 TEU provides that the Presidency is to consult the European Parliament on the main aspects and the basic choices of the CFSP and is to keep it regularly informed of the development of the CFSP<sup>3</sup>.

Article 24 TEU provides that the Presidency is to negotiate agreements, if so authorised by the Council.

On cooperation on justice and home affairs (JHA), Article 39(2) TEU defines the role of the Presidency (regularly informing the European Parliament on matters under Title VI TEU)<sup>4</sup>.

The second subparagraph of Article 48 TEU gives the President the task of convening a conference of representatives of the governments of the Member States to adopt amendments to the Treaties on which the European Union is based, after a favourable opinion of the Council following consultation with the European Parliament and the Commission.

The Council's Rules of Procedure, hereinafter CRP<sup>5</sup>, supplement and further define this general framework by highlighting the tasks of the President throughout the Council's decision-making process and within its preparatory bodies. In particular, Article 20 thereof confers a number of specific tasks on the Presidency.

Finally, practice has played a large part in defining the role of the Presidency. Discounting the (more or less) marked aspects of national character which can set their stamp on the role for six months, experience over the years has fleshed out the broad lines of the Presidency's role, the main features of which are described below.

<sup>3</sup> See Chapters IV, Section 1, and V, Section 5.  
<sup>4</sup> See Chapter V.

<sup>5</sup> Council Decision of 22 March 2004 adopting the Council's Rules of Procedure (OJ L 106, 15.4.2004, p. 22), amended by Council Decision of 11 October 2004 (OJ L 319, 20.10.2004, p. 15), amended by Council Decision of 23 January 2006 (OJ L 22, 26.1.2006, p. 32).

## 2. There is one Presidency

The counterpart of the single institutional framework – an essential element of the structure of the Treaty on European Union – is the single Presidency, which is held by the same Member State in every sphere of activity of the Union (Community matters; CFSP and JHA) and at all levels (from working parties to the European Council).

There are, nevertheless, certain gradations or exceptions to the principle of a single Presidency stemming from the need for the greatest possible efficiency and cohesion, while ensuring continuity of action by the Union. These are essentially as follows:

(a) The Presidency no longer makes six-monthly programmes but has to submit jointly with the other Presidency of the same year an annual operational programme of Council activities. This annual programme is drafted in the light of the multiannual strategic programme adopted by the European Council for 3 years on a recommendation from the General Affairs and External Relations Council, based on a joint proposal by the six Presidencies concerned (Article 2(4) and (5) CRP).

(b) Instances of overlapping, or temporary rules, are stipulated within the CRP<sup>6</sup>, which specifically provide that the place of the Presidency-in-Office may be taken by the following Presidency on committees and in working parties – but not in Coreper – where it is certain that the corresponding Council meeting will be held under the following Presidency. In the specific case of the examination of the EC budget, meetings of preparatory bodies dealing with the preparation of budget items are chaired by the Presidency of the second six-month period.

(c) When carrying out its tasks of representing the Union and implementing CFSP decisions (Article 18(1) and (2) TEU), the Presidency is assisted by the Secretary-General/High Representative for the CFSP (Article 18(3) TEU), and if need be by the next Member State to hold the Presidency (see Article 18(4) TEU)<sup>7</sup>.

<sup>6</sup> Such overlapping is mentioned in Article 19(5) and (6) CRP.

<sup>7</sup> It should also be noted that the Secretary-General/High Representative for the CFSP assists the Council in matters coming within the scope of the common foreign and security policy, in particular through contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties (Article 26 TEU). See also Chapter V, Section 5.

(d) At international conferences, provision can be made for twofold external representation by the Presidency and Commission in order to meet the need for consistency.

(e) Certain committees which prepare Council proceedings are not chaired by the country holding the Council Presidency<sup>8</sup>.

## 3. The Presidency is neutral

The Presidency must, by definition, be neutral and impartial. It is the moderator for discussions and cannot therefore favour either its own preferences or those of a particular Member State. This presupposes both good coordination with its own State's spokesmen so that they can voice the national position without impeding the work of the Presidency, as well as taking due account, on their own merits, of all positions expressed.

The duty to be neutral exists alongside the political dimension which informs the conduct of Union business and which is particularly apparent in the order of priority set in the choice and handling of items of business. This order of priority is occasioned by considerations of topicality and of deadlines, as well as by the political tone which the Presidency wishes to set for its six-month period. In its role as moderator, the Presidency must also take action where it notes that a stalemate has occurred; this will take the form of compromise suggestions to reconcile the different interests involved in a single issue or a set of interconnected issues (package deal), which inevitably means that political choices have to be made.

## 4. The Presidency deploys national resources

Major deployment of the entire national administrative apparatus is required to get the Presidency up and running. Each Member State uses its own working methods conditioned by its traditions and culture, as well as more incidental considerations linked to its size or the nature of its interests. The size of this extra workload for national administrations (both capitals and permanent representations), even for the larger Member States, should not be underestimated. The success of a Presidency largely depends on how well it is

<sup>8</sup> See Council Decision of 29 September 2000 on the composition and the statutes of the Economic Policy Committee (OJ L 257, 11.10.2000, p. 28). See also the Economic and Financial Committee (OJ L 353, 31.12.1998, p. 109 and OJ L 5, 1.1.1999, p. 71), the Code of Conduct Group (business taxation) – Council conclusions of 9 March 1998 (OJ C 99, 1.4.1998, p. 1), the Military Committee – Council Decision of 22 January 2001 (OJ L 27, 30.1.2001, p. 4) and the Security Committee – set up under the Council's security regulations of 19 March 2001 (Part II, Section 1, paragraph 3 – see OJ L 101, 11.4.2001, p. 1). A number of other Working Parties are chaired by members of the General Secretariat of the Council (see Seville European Council conclusions of June 2002).

prepared and how effectively it coordinates with its national administration. Nevertheless, the administration of the Member State taking on the Presidency is not working in isolation since it has the support of the General Secretariat of the Council.

#### 5. The Presidency is always in the hands of the Council

Any procedural decision by the Presidency may be challenged by the Council by a simple majority. Any statement by or letter from the Presidency expressing the Council position, particularly in its relations with the other institutions, must meet with the Council's or Coreper's agreement.

Article 19(7) CRP gives Coreper the power to adopt a number of procedural decisions.

#### 6. The General Secretariat of the Council

The Treaty provides that the Council is to be assisted by a General Secretariat, under the responsibility of a Secretary-General/High Representative for the CFSP, who is to be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The rules of procedure stipulate that the Secretary-General, assisted by the Deputy Secretary-General, has full responsibility for administering the appropriations entered in the Council budget. In practice, both undertake a wide variety of tasks in assisting the Council at various levels and in ensuring the smooth running of the General Secretariat.

#### (a) The Secretary-General/High Representative for the common foreign and security policy

The Secretary-General/High Representative for the CFSP is head of the General Secretariat and holds overall political responsibility for its activities. He has ultimate responsibility for the organisation and execution of the services provided by the General Secretariat to the Council as a whole, and to the Presidency in particular, for meetings of the European Council, the Council and its preparatory bodies. He takes part in meetings of the European Council, of the General Affairs and External Relations Council and, where appropriate, of certain other Council configurations. He maintains close links with the Permanent Representatives Committee (Part 2) and with the Political and Security Committee.

Under the Treaty, the Presidency represents the Union in matters coming within the common foreign and security policy. The Presidency is responsible for the implementation of decisions in this area and is assisted by the Secretary-General/High Representative for the CFSP. The Secretary-General/High Representative for the CFSP assists the Council in matters coming within the scope of the common foreign and security policy.

in particular through contributing to the formulation, preparation and implementation of policy decisions and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties.

The common foreign and security policy includes all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide.

Accordingly, the Secretary-General/High Representative plays a very specific role in helping the Presidency and the Council to perform their duties in these areas.

#### (b) The Deputy Secretary-General

The Deputy Secretary-General, under the authority of the Secretary-General/High Representative, has full responsibility for managing the Secretariat's human and financial resources. In addition, the Deputy Secretary-General is at the disposal of the Council for the provision of advice in advance of and during meetings of the European Council, the Council, and its preparatory bodies. He briefs the chair of the Permanent Representatives Committee ahead of each meeting of Coreper (Part 2).

#### (c) The General Secretariat

The task of assistance, which the General Secretariat performs alongside the Presidency, involves several types of function.

(i) Besides the logistical support as described in Chapter VII, the General Secretariat supports the Presidency in its responsibilities for organising work (drawing up the timetable, setting the dates of meetings, convening meetings, briefings before meetings, etc.).

(ii) During meetings, the General Secretariat informs the Presidency about the procedures applicable, is responsible for drawing up minutes of meetings, as well as all the documents reporting on progress or summarising the outcome, at every stage of the decision-making process (working parties, committees, Coreper and Council), and makes sure that those reports are circulated<sup>9</sup>.

<sup>9</sup> See below Chapter I, Section 6(c)(iv) (Press Office)

- (iii) It acts as the registrar and memory of the Council's discussions and decisions.
- (iv) Besides its notarial-type work, the General Secretariat has progressively built up an advisory role with the Presidency which manifests itself in different ways; in particular it is involved – to varying degrees – in working out the terms of Presidency compromises, in respect of both drafting and content.
- (v) The Legal Service of the Council has a specific role to play which should be emphasised. It is the legal adviser to the Council<sup>10</sup>. Indeed, since the Community is – according to the Court of Justice of the European Communities – "a Community based on the rule of law, inasmuch as neither its Member States nor its institutions can avoid a review of the question whether the measures adopted by them are in conformity with the basic constitutional charter, the Treaty", it is vital that the Council should have access to independent legal opinions. While the Legal Service is an integral part of the General Secretariat, it is independent in the opinions it gives. Representatives of the Legal Service attend most working party and committee meetings and all Coreper, Council and European Council meetings and are called upon to answer any institutional or legal questions raised during discussions, or to raise such questions themselves and put forward solutions. Oral contributions by the Legal Service, which are in some cases set down in written form, play an important part in helping the Presidency to conduct its proceedings. The Legal Service, and in particular its team of linguistic experts, is responsible under Article 22 CRP for ensuring the drafting quality of legislative acts, pursuant to the interinstitutional agreement of 22 December 1998<sup>11</sup>. Finally, it represents the Council before the Court of Justice and the Court of First Instance.
- (vi) As part of the policy of transparency, the General Secretariat has responsibility for implementing, on behalf of the Council, Regulation 1049/2001<sup>12</sup> regarding public access to European Parliament, Council and Commission documents. It is also responsible for making Council deliberations public in accordance with Article 9 CRP (statements entered in the minutes, items in the minutes, the results of votes and explanations of votes made public) as well as for implementing Annex II to the CRP on access to Council documents, such as maintaining a public register of documents and for making a number of documents automatically accessible to the public in accordance with Article 11 of that Annex. Such documents may be accessed via the Council's web site (<http://ue.eu.int> and <http://register.consilium.eu.int>).

<sup>10</sup> The Director-General of the Legal Service is also the legal adviser to the intergovernmental conferences (IGCs) which amend the Treaties.

<sup>11</sup> Guidelines for the quality of drafting of Community legislation (OJ C 73, 17.3.1999, p. 1).

<sup>12</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

(vii) The Secretary-General, with the Presidency's agreement, or the Deputy Secretary-General or a Director-General, acting on their behalf, gives notice of Council acts (Article 18 CRP).

(viii) The Secretary-General, the Deputy Secretary-General or one of the senior Council officials may, acting on the Presidency's instructions, represent the Council before European Parliament committees (Article 26 CRP).

(ix) The Press Office provides information on the Council to the outside world by drafting:

- press releases circulated prior to Council meetings; these basically give the agenda;
- background notes on certain items under discussion which are available for the briefing which the Presidency gives to the press in the week before the Council meeting;
- press releases circulated after the Council meetings containing the outcome of proceedings and the text of any statements, resolutions or agreements decided on by the Council and including the results of votes made public<sup>13</sup> together with any explanations of votes made public.

The Press Office also publishes any Council statements on CFSP matters adopted outside Council meetings (written procedure) and, finally, arranges contacts with journalists, particularly briefings prior to Council and Coreper meetings. In performing these tasks, the Press Office plays a crucial role in promoting transparency.

Information for the press is made available to the public via the Internet (<http://ue.eu.int/newsroom>).

(x) The General Secretariat takes charge of publishing official documents of the Council in the Official Journal of the European Union (<http://europa.eu.int/eur-lex>)<sup>14</sup>.

The General Secretariat of the Council, including its Legal Service, performs the same role in all areas of the Council's activity, including the CFSP-ESDP<sup>15</sup> and JHA.

<sup>13</sup> See Chapter III, Section 4(g).

<sup>14</sup> Art. 17 of the Council's Rules of Procedures (OJ L 106, p. 31)

<sup>15</sup> European security and defence policy.