

11

THE COUNCIL OF MINISTERS

Preview

If the European Commission displays many (but not all) of the conventional features of a bureaucracy, the Council of the European Union (more often known simply as the Council of Ministers) is harder to pin down. It consists of national government ministers of the member states and shares responsibility with the European Parliament for making EU law and approving the EU budget. This makes it, in some ways, something like an upper chamber of a legislature (or a European Senate), but the analogy cannot be taken too far, and recent studies suggest that it is doing less lawmaking and more policymaking.

Unlike the supranational Commission, the Council of Ministers is confederal, intergovernmental and supranational in nature: its members provide indirect representation of the interests of citizens, and they defend national interests while trying to balance them with the goals of European integration. The Council makes decisions on the basis either of consensus or using a system of qualified majority voting, under the guidance of a presidency that is held by each member state in rotations of six months. Its more detailed work is undertaken by a network of working parties and committees, and by permanent representatives of the member states who are based in Brussels and who meet regularly as the Committee of Permanent Representatives, or Coreper. Despite the critical role played by the Council in EU governance, it has been surprisingly little studied, and is less well known to many Europeans than the Commission or the European Parliament.

Key points

- The Council of Ministers is where national government ministers make decisions on proposals for new laws.
- The Council of Ministers is headquartered in Brussels, its membership changing according to the policy area under discussion.
- Meetings of the Council of Ministers are chaired by representatives from the presidency of the Council, which rotates among member states every six months.
- Most of the work of the Council is undertaken by the Committee of Permanent Representatives (Coreper), one of the most influential and most often overlooked institutions in the EU system of governance.
- The main job of the Council is to decide – in conjunction with Parliament – which proposals for new EU laws and policies will be adopted and which will not. It also shares powers with Parliament for approving the EU budget.
- Most Council decisions use a qualified majority voting system, with each member state given a number of votes roughly in proportion to the size of its population.



CONCEPT

Legislative function

The part of governing process that is concerned with making laws, that is typically the responsibility of the legislature (which might be a parliament, a congress, a national assembly or a council). The function usually includes the ability to propose, draft, amend and either approve or reject new laws, and to amend or cancel existing laws. In some political systems, proposals for new laws come from the executive, while in others those proposals come from the legislature itself. Input into the legislative process is also usually accompanied by authority to discuss, amend, and approve or reject the national budget.

Comparing legislative functions

In all the public and political debates about the EU and its effect on the lives of Europeans, the institutions that loom largest are the European Commission and the European Parliament; the former has become the lightning conductor of the EU because of its role in making and implementing law and policy, while the latter has the closest direct connection to European voters. Meanwhile, much less attention is paid to the Council of Ministers (Figure 11.1), whose work rarely makes the news in the same way as that of the Commission or Parliament. Polls find that it is one of the least known and understood EU institutions; while a Eurobarometer poll in 2017 found that about 90 per cent of Europeans had at least heard of the Commission and Parliament, a 2012 poll (the last year in which the question was asked) found that only 71 per cent had heard of the Council (European Commission, 2017a, 2012a). Meanwhile, only about three in every five Europeans know that the Council agrees EU laws and the EU budget jointly with the European Parliament (European Parliament, 2016).

This is unfortunate, because the Council has strong democratic credentials: its members are part of the democratically elected governments of the member states, and greater understanding of this might offset some of the criticisms made about the elitist nature of the EU and its democratic deficit. The Council also has significant power: it shares with Parliament the authority for the **legislative function** within the EU system, and Häge (2014) goes so far as to argue that it is 'the *main* legislative institution' (emphasis added) in the EU, noting that Parliament still has no say in several policy areas and that 'no legislative decision is made without the explicit agreement of the Council'. For his part, Puetter (2014) argues that the Council has gone beyond an interest in legislative matters and increasingly focuses on broader policy debates, policy coordination and responses to crises. This has produced a shift in emphasis in the Council from lawmaking to policy coordination.

Part of the difficulty with understanding the Council stems from its highly unusual character; there is nothing quite like it in any national political system. The closest point of equivalency lies in the **bicameral legislatures** that are found in about 40 per cent of the countries of the world. These are legislative assemblies that have two

Figure 11.1 *Structure of the Council of Ministers*

- The quasi-legislative arm of the EU, sharing powers with the European Parliament.
- Headquartered in Brussels.
- Presidency held by member states taking turns in a pre-agreed rotation. Foreign Affairs Council chaired by the High Representative for Foreign Affairs.
- Consists of the relevant national government ministers of the member states, membership changing according to the policy area under consideration.
- Most negotiations within the Council take place in the Committee of Permanent Representatives, made up of representatives from the member states.
- Work supported by a General Secretariat.
- Intergovernmental and confederal in character, but with supranational aspects.

Bicameral legislature One consisting of two chambers with complementary functions, in contrast to a unicameral legislature with just one chamber.

chambers which typically complement one another while normally having separate sets of tasks, even if the differences are sometimes marginal. In some countries (notably those based on the US model), the two chambers have almost equal powers over the legislative process, while in others (mostly those in parliamentary systems), the upper chambers have fewer such powers. While some upper chambers are elected, others consist of members who are appointed, indirectly elected, or hold their positions *ex officio* (that is, by virtue of holding another kind of office).

The EU Council of Ministers is not formally a second legislative chamber in the EU political system, but it has many of the functions of such a chamber, working in concert with the European Parliament. Its members are government ministers from the member states, and their job is to meet regularly to discuss and make decisions on new EU laws, and to discuss and approve the EU budget. Given this reality, and given that the most powerful bicameral legislatures are often found in large and diverse countries (particularly federations such as the United States, Brazil and Nigeria), why not acknowledge that the EU could stand to have a bicameral Parliament, with the Council converted into a European Senate representing the interests of the member states (much like the US Senate), and the existing Parliament representing smaller and more focused districts within the member states (much like the US House of Representatives)? The simple answer is that the governments of the member states do not want to give up the power they enjoy in the Council. It is a possibility, however, that is worth considering.

The Council of Ministers is headquartered in the Justus Lipsius building (also known as the Consilium) in the European Quarter of Brussels, across from the Berlaymont, seat of the European Commission. Named for a sixteenth-century Flemish humanist, the Justus Lipsius is a large, marble-clad building that was opened in 1995 at a cost of €450 million, allowing the Council to move from the nearby Charlemagne building and a network of rented offices into a single home. However, the new building was already too small to account for enlargement of the EU or the decision to hold all European Council summits from 2003 in Brussels. As the Council spilled over into neighbouring buildings, renovations were made to the Lipsius building to absorb the growth, and the European Council moved next door to the Europa building, renovated at an estimated cost of €315 million.

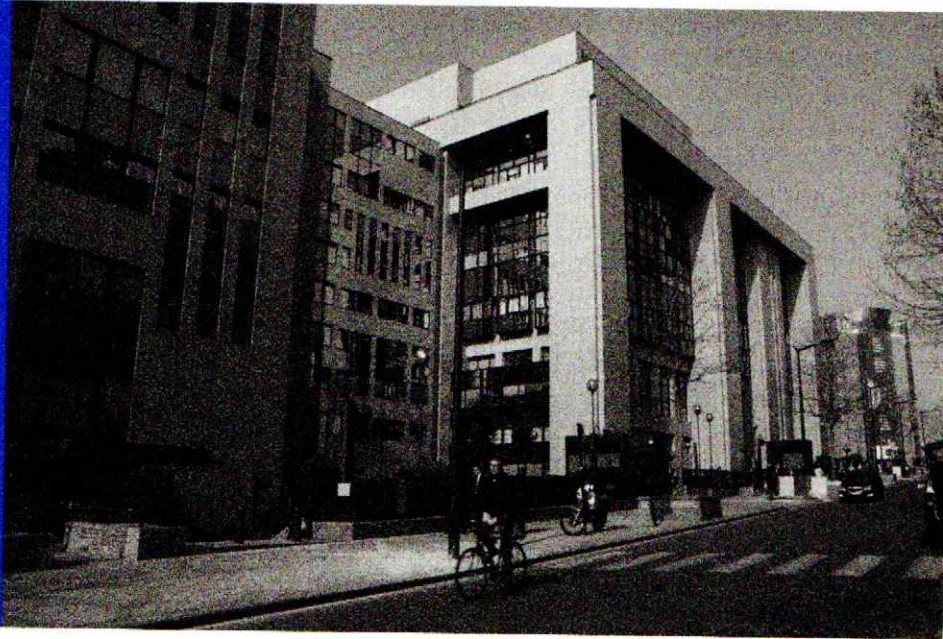
How the Councils evolved

The formal name of the Council is the Council of the European Union, although it is usually known simply as the Council of Ministers. Either way, it is routinely confused with the European Council (both are often referred to as 'the Council'), and even to some extent with the Council of Europe. The Council traces its roots back to the Special Council of Ministers that was part of the ECSC. While the High Authority dealt exclusively with matters relating to coal and steel, all other initiatives needed the approval of the Council of Ministers. The Council was designed to be a link between the High Authority and national governments, balance the supranational character of the High Authority, and assuage the concerns of the Benelux countries about the political dominance of France, West Germany and Italy (Westlake and Galloway, 2004).

Separate Councils of Ministers were created for the EEC and Euratom in 1958, and national interests moved to the fore as the balance of power shifted from the three Commissions to the three Councils. A qualified majority voting

Illustration 11.1:

The Justus Lipsius building in Brussels, seat of the Council of Ministers, and part of the cluster of key EU offices that make up the European Quarter.



Source: John McCormick

system was created that was designed to protect smaller member states from being overwhelmed by larger states: each Council had only six members, but they shared 17 votes that were shared out approximately in proportion to the size of each country. On some issues a simple majority was enough, but on others a minimum of 12 votes (70 per cent of the total) was needed. Under the Merger treaty, the three councils were combined in 1967 into a single Council of Ministers.

Speaking at the first session of the ECSC Council of Ministers in September 1952, West German Chancellor Konrad Adenauer argued that the Council stood 'at the crossroads of two kinds of sovereignty, national and supranational ... While it must safeguard the national interests of the member states, it must not regard this as its paramount task ... which is to promote the interests of the Community' (cited in Monnet, 1978). The Council has been torn ever since between these two goals, which some see as compatible and others see as contradictory. It is dominated by national government ministers with their own parochial concerns, so its work is ultimately intergovernmental (see Understanding Integration 8) and the sum of national concerns. However, the search for compromise can encourage ministers to reach decisions that promote the broader interests of the EU. Lewis (2012) notes the 'double-hatting' nature of work in the Council, with its staff required 'to deliver both at home and collectively by finding solutions that everyone can live with'.

It was assumed that as Europe integrated and the member states learned to trust one another, the Council would become less important and the Commission would be able to initiate, decide *and* implement policy. In the event, the power and influence of the Council grew because member states were disinclined to give up powers to the Commission. The result was a perpetuation of the idea of the EEC as an intergovernmental organization, which displeased those who supported a federal Europe. At the same time, however, both the European Council and the European Parliament have made inroads into the power of the Council of Ministers. The former – which is similarly torn between European and national pressures – has more power in deciding the broad goals of the EU, and the latter has demanded and won a greater say in decision-making.



UNDERSTANDING INTEGRATION 8

Intergovernmentalism

Intergovernmentalism is an approach to understanding international relations that focuses on how governments interact with each other in the meeting rooms of intergovernmental organizations. In relation to the EU, it is:

- a theory based on the argument that states are the key actors in the process of integration, and that they behave as rational actors
- a model describing how representatives of the member states negotiate and make decisions.

In theoretical terms, it looks at the costs and benefits to states of their participation in the EU; they want to protect national interests, but they will also look at the extent to which integration results in more efficient decision-making. It also assumes that states work hard to remain in control of decision-making at the EU level, and that rather than transferring sovereignty to the EU institutions, the most they are prepared to do – as we saw in Chapter 1 – is to pool or share that sovereignty. Using this logic, the most important of the EU institutions are the Council of Ministers and the European Council, both of which are made up of representatives from the member states, and where the interests of the member states are most obviously defended. By contrast, the other EU institutions take a more supranational approach to business, representing the EU as a whole rather than the individual member states (see Understanding Integration 10, Chapter 14).

There are no clear dividing lines, however, between intergovernmentalism and supranationalism, and opinion is divided on the extent to which the councils are one or the other, and whether they are becoming stronger or weaker with time. Westlake and Galloway (2004) argue that to portray the Council of Ministers as intergovernmental is misleading, and that it is 'first and foremost a supranational institution' because it acts as a collective body when defending the Council's interests relative to other EU institutions, or the EU's interests to the outside world. The ministers are domestic politicians, so they are driven by national political interests, ideology, the popularity and stability of their home governments, and the attitude of those governments towards European integration. At the same time, they are pulled in several directions, it is difficult always to be sure to whom they are responsible, and the character of the Council remains ambiguous at best (Hayes-Renshaw and Wallace, 2006).

Routinely overlooked in discussions about the councils is the extent to which they are not just intergovernmental in nature, but also confederal. A confederation, as we saw in Chapter 2, is a group of sovereign states with a central authority deriving its authority from those states, and where the interests of citizens are represented indirectly through the governments of the states meeting in common institutions. This precisely describes the dynamic of both the Council of Ministers and the European Council, the membership of which is not determined directly by elections, but indirectly through an ex officio arrangement: the members of both bodies are there by virtue of being senior members of their national governments.

Leadership: The presidency

Unlike the four other main institutions of the EU, the **presidency of the Council of Ministers** is held not by a single person but by the government of a member state, with each government taking turns in a pre-agreed rotation for six months, beginning in January and July each year (see Table 11.1). All meetings of the Council are organized and chaired by the relevant ministers from the country holding the presidency, giving its government a key role in setting the EU agenda for six months. The powers of the presidency were reduced as a result of the Treaty of Lisbon, which gave the European Council its own president, while arranging for the Foreign Affairs Council to be chaired by the High Representative (HR) of the Union for Foreign Affairs and Security

Presidency of the Council of Ministers

The leadership of all meetings of the Council of Ministers except the Foreign Affairs Council. Held by the governments of EU member states in a rotation of six months each.

Table 11.1 *Rotation of the presidency of the Council of Ministers*

	First half	Second half
2013	Ireland	Lithuania
2014	Greece	Italy
2015	Latvia	Luxembourg
2016	Netherlands	Slovakia
2017	Malta	Estonia
2018	Bulgaria	Austria
2019	Romania	Finland
2020	Croatia	Germany
2021	Portugal	Slovenia
2022	France	Czech Republic

Policy. All other meetings of the Council are still chaired by representatives of the member states.

The office of the presidency was once regarded as an 'administrative chore' (Hayes-Renshaw and Wallace, 2006, p. 133), but it came to be taken more seriously as more demands were made on the presidency to lead, manage agendas, broker agreements, and represent the EU to the outside world (Tallberg, 2006). The duties of the presidency today are as follows:

- It prepares and coordinates the work of the Council of Ministers, setting the agendas for several hundred annual meetings of ministers, working parties and committees.
- It arranges and chairs most meetings of the Council of Ministers and the Committee of Permanent Representatives (or Coreper; see later in this chapter) and represents the Council in dealings with other EU institutions.
- It mediates, bargains, promotes cooperation among member states, and tries to ensure that policy development has consistency and continuity.

While the rotation was viable when there were only 6 or even 12 member states, it has lengthened as membership has grown, so that members must now each wait more than a dozen years for their turn at the helm; this is a lifetime in politics, and most member states will have seen several changes of government between one presidency and another (a problem offset to some extent by the relative constancy of the European Council – see Chapter 13). Just how much a member state can actually achieve during the span of a presidency is debatable, because despite the importance attached to the job by the holder, and the grand plans that each member state typically has for its 'turn at the top', much of what happens is outside the control of the presidency. The day-to-day work of running the EU continues at its own pace, most of the key decisions being taken by bureaucrats in Brussels.

At one time, the rotation among member states was alphabetical, but as the membership and the workload of the EU grew, it created a burden that was especially onerous on smaller member states with limited resources and small bureaucracies. A more complex arrangement was agreed in 2007 to make sure that the workload was more evenly spread, to mix big and small countries,

to intersperse older and newer member states, and to reflect geographical and economic differences. One of the effects of the rotation is to hold the rest of the EU hostage to the different styles, interests and political abilities of the countries in the presidency, and it means a constant change of personnel at the top. This is offset to some extent by the use of a **trio system**, under which each presidency cooperates with its predecessor and successor. With Lisbon, this has evolved into a virtual 18-month, three-state team presidency, which has the advantage of encouraging EU governments to work together and to better know each other.

The alternating presidency has the advantage of giving each member state the opportunity to guide the direction of the EU. This, in turn, allows member states to convene meetings and launch strategic initiatives on issues of particular national interest, and to try to bring those issues and initiatives to the top of the EU agenda (hence the Council is described on its website as the 'voice of EU member governments'). Member states can also use the presidency to earn prestige and credibility (assuming they do a good job), and the office gives smaller member states an opportunity to counter the influence of bigger states, allows the leaders of smaller states to negotiate directly with other world leaders – which they might otherwise rarely be able to do – and contributes to European integration by making the EU more real to the citizens of that country; it helps them to feel more involved and to see that they have a stake in the development of the EU.

The main disadvantage of the job is the sheer volume of work involved. A member state can pass up its turn as president, as Portugal did immediately after it joined the Community in 1986 on the grounds that it was not yet in a position to do a good job. A member state can also ask another state to help bear some of the workload. Ireland, for example, has won respect for its presidencies but has had difficulty meeting its foreign policy obligations. Officially neutral, Ireland has fewer than 40 full-time embassies outside Europe, which means it lacks an intelligence-gathering system and a pool of foreign policy experts. Ireland's low-key approach led to the old joke that its most useful role in international relations lay in occupying the seat between Iraq and Israel at international gatherings.

Different EU member states have different approaches to the presidency, depending upon a combination of their national administrative and political cultures, their attitudes towards the EU, and their policy priorities. This was once described in colourful terms by *The European* (a British newspaper published in the 1990s) when it likened an Italian presidency to 'a bus trip with the Marx brothers in the driver's seat', while the subsequent Luxembourg presidency was more like 'being driven by a sedate couple who only take to the road on Sundays and then infuriate other motorists by respecting the speed limit' (*The European*, 1990).

The Councils

The different groups of ministers that make up the Council are known either as 'technical councils', 'formations' or 'configurations'. Where once there were nearly 24, there are now just 10 (see Table 11.2). Whichever of these groups is meeting, they always act as 'the Council', and in legal terms their decisions are always taken as 'the Council'. The two major councils are:

Trio system The arrangement under which the member state holding the presidency works closely with its predecessor and successor in order to help encourage policy consistency.

Table 11.2 *Configurations of the Council of Ministers*

Agriculture and Fisheries
Competitiveness
Economic and Financial Affairs
Education, Youth, Culture and Sport
Employment, Social Policy, Health and Consumer Affairs
Environment
Foreign Affairs
General Affairs
Justice and Home Affairs
Transport, Telecommunications and Energy

Note: For more details and updates, see Council of Ministers website at www.consilium.europa.eu/en/council-eu/configurations.

- General Affairs, which is responsible for ensuring consistency in the work of the different councils, and ensuring follow-up to meetings of the European Council. It is supported in its work by the Committee of Permanent Representatives, or Coreper.
- Foreign Affairs, which is responsible for elaborating on the EU's external relations on the basis of guidance from the European Council. This council is unique in that it has a permanent chair – the EU High Representative for Foreign Affairs and Security Policy – who is also a member of the European Commission.

These two councils, along with the Economic and Financial Affairs Council (Ecofin) and the Agriculture and Fisheries Council, meet monthly, while the rest meet between two and four times each year, for a grand total of about 50–60 Council meetings per year. Almost all are held in Brussels, except in April, June and October when they are held in Luxembourg. Except for the Foreign Affairs Council, all meetings are chaired by the relevant minister from the member state holding the presidency. Sessions are open to the public and usually last no more than one or two days, depending on how much business they have. Since 1998, finance ministers from the euro zone have also met as the Eurogroup, which is not formally part of the Council of Ministers but works in much the same way, and meets the day before meetings of Ecofin.

The Treaty of Lisbon says that representatives of the member states must be 'at ministerial level', and in a perfectly symmetrical world, each of the councils would consist of the relevant and equivalent ministers from each member state. This does not always happen, though, for two main reasons. First, not all member states send their ministers but instead they send deputy ministers or senior diplomats. The relevant minister may want to avoid political embarrassment on some issue, may have more urgent problems to deal with at home, or may not think the meeting is important enough to attend. Second, not all member states divide policy portfolios up the same way; prime ministers, for example, sometimes give themselves key policy portfolios such as foreign or economic affairs, while some of the less important portfolios may be combined with the responsibilities of senior ministers. The result is that council meetings are often attended by a mixed set of ministers with different responsibilities.



Illustration 11.2: A meeting of the Agriculture and Fisheries Council, one of the more important of the multiple 'configurations' of national government ministers that make up the Council of the European Union.

Source: © European Union

Supporting structure

Just as the European Commission has a network of institutions that support the work of the commissioners, so the Council of Ministers has its own supporting bodies that play a critical role in the EU decision-making process. Their role and influence has been little studied by scholars despite the fact that, while only the ministers have the right to make decisions, a considerable proportion of those decisions are actually made by lower-level committees (Häge, 2014).

Permanent representatives

Although ministers are the most visible and senior members of the Council hierarchy, much of the work of the Council has already been settled before the ministers meet. This is made possible by the Committee of Permanent Representatives, or **Coreper** (*Comité des représentants permanents*). Each member state maintains a permanent representation in Brussels, in effect an embassy to the EU that works alongside member state embassies to Belgium. The staffs of the permanent representations include experts in each of the policy areas addressed by the EU, and these experts will meet regularly as Coreper (often multiple times each week, and altogether about 2,000 times a year) to go through the proposals for new laws, argue national positions, and work out agreements and compromises. Little known outside the political corridors of Brussels, and the subject of surprisingly little academic study, Coreper is one of the most powerful parts of the EU decision-making structure (although Puetter (2014) suggests that as ministers have engaged in more non-legislative work, and have moved into the arena of policymaking, Coreper has been increasingly side-lined).

Thanks to Coreper, most of the detailed work of the Council is finished before the ministers even meet (Hayes-Renshaw and Wallace, 2006), with only the most politically sensitive and controversial proposals left for the ministers to discuss. This arrangement was once described colourfully by Alan Clark (1993, p. 139), a former British government minister, when he made this quip in his diaries:

Coreper The Committee of Permanent Representatives, in which delegates from each of the member states meet to discuss proposals for new laws before they are sent to the Council of Ministers for a final decision.

it makes not the slightest difference to the conclusions of a meeting what Ministers say at it. Everything is decided, and horse-traded off by officials at Coreper ... The ministers arrive on the scene at the last minute, hot, tired, ill, or drunk (sometimes all of these together), read out their piece and depart.

The permanent representatives act as a valuable link between Brussels and the member states, ensuring that the views of the member states (or at least their governments) are expressed and defended and that the national capitals are kept informed of what is happening in Brussels. Because they work with each other so much and come to know each other well, the representatives are occasionally torn between defending national positions and trying to ensure that their meetings lead to successful conclusions. At the same time, they know each other better than do the ministers and so are better placed to reach compromises and to negotiate deals, often informally over lunch. They also play a key role in organizing Council meetings by preparing agendas, deciding which proposals go to which Council, and deciding which of the proposals are most likely to be approved by the Council with or without discussion.

Working parties and committees

In addition to Coreper, the Council of Ministers has a complex network of working parties and committees (about 150 in all, together meeting several thousand times each year) that support the work of Coreper, and in this sense function as the foundations of the Council edifice. The first port of call for a proposal from the Commission is usually a working party, which reviews the technical details and makes a recommendation to Coreper. The working parties are organized along policy lines, with a variety of charges: some are permanent, some are temporary, some meet weekly, some biannually, and some only once before being disbanded. They bring together policy specialists, national experts, members of the permanent representations, and staff from the Commission. The Council also has several standing committees, dealing with economic and financial matters, employment, social protection, security matters, financial services and other key issues.

General Secretariat

The Council General Secretariat (CGS) is the bureaucracy of the Council of Ministers and the European Council, staffed by about 3,500 employees based in Brussels, most of them translators and service staff. It helps prepare Council meetings, provides advice to the presidency, provides legal support to the Council and Coreper, briefs Council meetings on the status of agenda items, keeps records, manages the Council budget, and generally gives the work of the Council some order and continuity. Behind this rather bland formula, it is important to note that the CGS has become more political over time, keeping records and providing support while also helping manage negotiations, offering counsel to the presidency, and helping with the executive duties of the Secretary General (Westlake and Galloway, 2004).

The Secretary General is appointed by the Council of Ministers to five-year renewable terms, and serves also as Secretary General of the European Council. The job was briefly given a new personality and a higher public profile in 1999 when it was combined with the (then) new office of the High Representative for Foreign Affairs and Security Policy, a move which had the effect of making the

Table 11.3 *Secretaries General of the Council of Ministers*

Beginning of term	Name	Member state	Length of term
September 1952	Christian Calmes	Luxembourg	Nearly 21 years
July 1973	Nicholas Hommel	Luxembourg	7 years
October 1980	Niels Ersbøll	Denmark	Nearly 14 years
September 1994	Jürgen Trumpf	Germany	5 years
October 1999	Javier Solana	Spain	10 years
December 1999	Pierre de Boisseau	France	Nearly 2 years
June 2011	Uwe Corsepius	Germany	4 years
July 2015	Jeppe Tranholm-Mikkelsen	Denmark	Incumbent as of late 2019

General Secretariat a hub for the development of the EU's foreign and security policies (Christiansen, 2006). The first holder of this combined position was Javier Solana, a former minister in the Spanish government and a former secretary general of NATO. With the passage of the Treaty of Lisbon, the job of High Representative was redefined so that the officeholder is now both chair of the Foreign Affairs Council within the Council of Ministers, and also a vice-president of the European Commission.

Meanwhile, the job of Secretary General reverted back to something more like its pre-1999 character when Solana was succeeded in December 2009 by Pierre de Boisseau, a French diplomat and grand-nephew of Charles de Gaulle. As of late 2019, the officeholder is Jeppe Tranholm-Mikkelsen, a Danish civil servant and formerly permanent representative of Denmark to the EU. Three notable features of the office are revealed in the list of secretaries general in Table 11.3; they have all been men, their terms in office have varied considerably, and they have come from a small selection of just five EU member states. The preponderance of men in senior positions of the bureaucracy is a problem through the EU structure, flying in the face of proclaimed efforts by most EU institutions to work towards gender equality.

What the Council does

The Council has a cluster of specific responsibilities, including overseeing attempts to coordinate the economic policies of the member states (which is done mainly through Ecofin), signing international treaties on behalf of the EU, approving (in conjunction with the EP) the EU budget, promoting the Common Foreign and Security Policy of the EU, and coordinating cooperation between national courts and police forces on criminal matters. Its main job, though, is to decide – in conjunction with Parliament – which proposals for new EU laws and policies will be adopted and which will not (see Figure 11.2). The European Commission may have a monopoly on proposing new laws and policies, but the Council and Parliament can encourage it to investigate an issue and to submit proposals for new policies or laws. The Council has exploited loopholes in the treaties to expand this power over the years, and the struggle between the Council and the Commission for power and influence has become one of the most important internal dynamics of EU decision-making (Hayes-Renshaw and Wallace, 2006, Chapter 8).

When the College of Commissioners has approved a proposal for a new law, it is sent to the European Parliament and to the Council of Ministers, where the

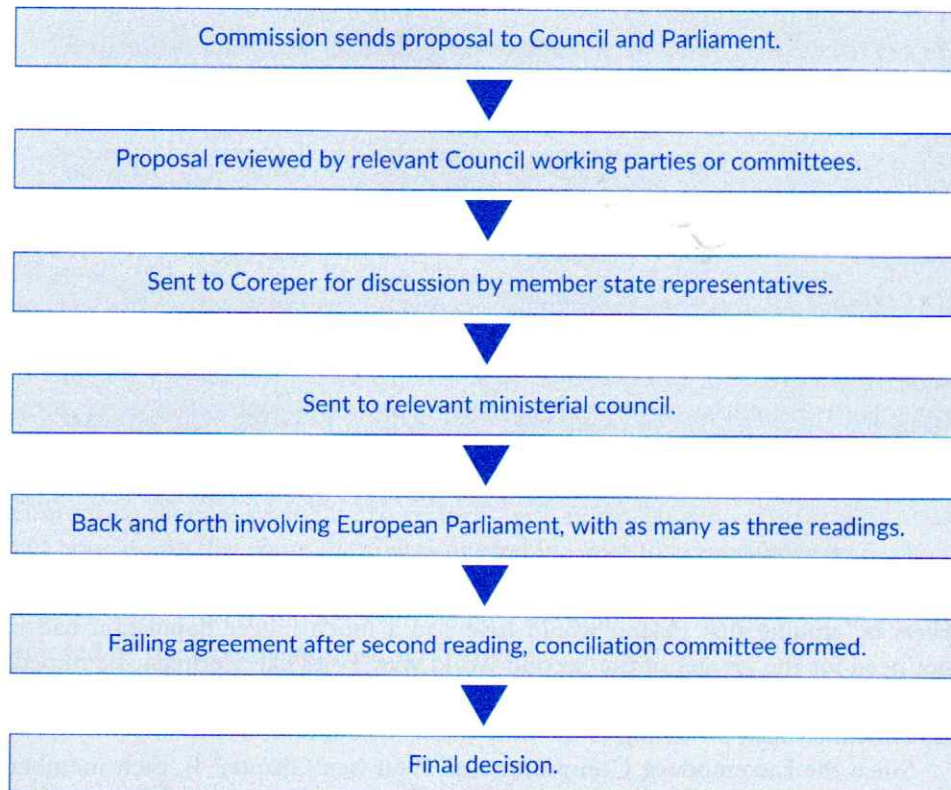
Figure 11.2 Powers of the Council of Ministers

- Shares powers with the European Parliament for discussing and passing laws.
- Shares powers with Parliament for debating and approving the EU budget.
- Coordinates the public policies of the member states.
- Defines and implements the EU's Common Foreign and Security Policy.
- Based on a mandate given to the Commission to negotiate agreements between the EU and other countries or international organizations, the Council decides on the final conclusion and signature of these agreements.

proposal goes first to one or more of the Council working parties or committees, which identify points of agreement and disagreement, the amount of time taken depending on the complexity of the proposal. The proposal is then sent to Coreper, listed on Part I of the Coreper agenda if agreement can be reached without further discussion, and on Part II if further discussion is needed. Coreper reviews the political implications and tries to clear up as many of the remaining problems as possible. If agreement is reached, the proposal is sent as an A item to the relevant council, which will usually approve it without debate – this is the case with about two-thirds of council decisions (Westlake and Galloway, 2004). If agreement has not been reached, or if the item was left over from a previous meeting, it is listed as a B item, meaning that it needs further discussion (see Figure 11.3).

The voting system within the Council has changed over the years, the options reflecting changing attitudes towards integration. Where once unanimity was required for almost every major vote, it is now all but unknown and ministers mainly have three options. First, it can use a simple majority if it is dealing with a procedural issue or working under treaty articles, with each minister having one vote. In practice, the 'vote' rarely (if ever) comes down to a show of hands but is often deduced by the chair simply by silence, the absence of opposition, or both. Negotiations are occasionally allowed to run on until the opposition has been worn down and a consensus has emerged, which is part of the reason why Council meetings can drag on until the small hours of the morning. If a single member state refuses to adopt the consensus, the presidency will occasionally resort to setting up a package deal whereby several proposals are carefully tied together in complex compromises and the dissenting state is encouraged to give in on the proposals it opposes in return for having its favoured proposals go through.

The Council's second voting option is unanimity, which was once needed if the Council was considering a new law that would set off an entirely new policy area or substantially change an existing policy. After the passage of the Single European Act, the use of unanimity became less common, and it began to be restricted mainly to votes on major constitutional issues (such as reform of the treaties), areas of political sensitivity (such as foreign policy, justice, and certain financial areas), and instances where the Council wants to change a Commission proposal against the wishes of the Commission. Puetter (2014) suggests that its use has been revived in recent years as the Council of Ministers has moved increasingly into policymaking and crisis response.

Figure 11.3 *Workflow of the Council of Ministers*

The third option – needed on almost every other kind of decision on which ministers have failed to reach a consensus – is a **qualified majority vote (QMV)**. Until the Treaty of Lisbon, each member state was given several votes in approximate proportion to its population (see Table 11.4). There was a total of 316 votes, with the three biggest states having 29 each, the middle-size states in the range of 7–14 votes each, and the smallest having 3–4 votes each. To be successful, a proposal had to win at least 260 votes along with the support of 55 per cent of the member states, that together must be home to at least 65 per cent of the population of the EU. With Lisbon, the first of these requirements was removed, so that QMV now involves simply the double majority of member states and population. A blocking minority is also available, requiring at least four states representing 35 per cent of the population of the EU. This convoluted arrangement reduces the power of big states and encourages states to form coalitions, but it also emphasizes the extent to which the member states continue to seek to protect national interests.

The allocation of votes was long a bone of contention. Particular consternation was generated during the debate over the constitutional treaty in 2007 when there was talk about reducing the number of votes given to Poland, which stood at 27 under the terms of the Treaty of Nice. The Polish government successfully resisted the change, even when it was pointed out that Germany – with twice the population and an economy ten times larger – had just 29 votes. Poland also resisted efforts during the debate over the Treaty of Lisbon to change QMV from a triple to a double majority (55 per cent of member states representing 65 per cent of the EU's population). The then Polish President Lech Kaczyński claimed that such a change would hurt Poland to the benefit of large states such as Germany, and shocked his



CONCEPT

Qualified majority vote

A system of voting in which the winning block or group needs more than a simple majority. It is also sometime known as a 'supermajority'. It is used in the Council of Ministers, while supermajorities of two-thirds are required in national legislatures to approve constitutional amendments in several countries, including Canada, India, Japan, Nigeria and the United States. Substantive votes in the UN Security Council require the support of at least 9 of its 15 members. The goal is to ensure that key decisions can only be made with the support of a significant proportion of a population.

Table 11.4 *Qualified majority voting in the Council of Ministers*

Germany	29	Hungary	12	Slovakia	7
France	29	Portugal	12	Cyprus	4
Italy	29	Austria	10	Estonia	4
Spain	27	Bulgaria	10	Latvia	4
Poland	27	Sweden	10	Luxembourg	4
Romania	14	Croatia	7	Slovenia	4
Netherlands	13	Denmark	7	Malta	3
Greece	12	Finland	7		
Czech Republic	12	Ireland	7		
Belgium	12	Lithuania	7	TOTAL	316

These numbers indicate the distribution of votes by member state prior to changes made in 2014 under the terms of the Treaty of Lisbon.

peers by arguing that Poland would have had a much bigger population had it not been for the ravages of the Second World War; 'Poles like Germans,' he mused, 'while Germans do not like Poles' (Mulvey, 2007). He was eventually placated by an agreement to delay switching to the new voting system until 2014.

Since the Luxembourg Compromise of 1966 (see Chapter 4), each member state has possessed an implied national veto. Although rarely used, its very existence can be employed as a threat, and governments can use it to convince their citizens that national sovereignty has not been compromised by EU membership. There have been several attempts since the 1980s to invoke it, usually in connection with votes on agricultural prices, but they have generally failed for lack of political support. Typically, a vote will not be called if the threat of veto exists.

This, then, addresses what happens within the Council of Ministers, but final decisions cannot be taken alone, and once proposals are agreed within the Council, they must be reviewed by Parliament. Where once there were three different procedures involved in this decision-making relationship, almost everything is now decided using what was once known as the 'codecision procedure', but is now known as the 'ordinary legislative procedure'. This works as follows:

- The Commission submits a legislative proposal to Parliament and the Council.
- At the first reading Parliament adopts its position.
- If the Council approves Parliament's wording then the act is adopted. If not, it adopts its own position and passes it back to Parliament. The Commission also informs Parliament of its position on the matter.
- At a second reading, Parliament can approve the Council's text (in which case the proposal is adopted), fail to take a decision, reject the Council's text (in which case the proposal fails), or modify it and send it back to the Council. The Commission gives its opinion once more; if it rejects the proposed amendments, Council must act unanimously rather than by majority.
- If Parliament amends the text and the Council approves it then the proposal is adopted.

- If the Council rejects the amended text, a Conciliation Committee is convened, composed of the Council and an equal number of Members of the European Parliament, and tries to draft a text agreeable to both Parliament and the Council. It has six weeks to do this. If it succeeds, and both Parliament and the Council agree to the new text with a third reading and a simple majority, the proposal is adopted. If either Parliament or the Council fails, the proposal dies.

Because the Council of Ministers is a meeting place for national interests, the keys to understanding how it works are found in terms such as *compromise*, *bargaining* and *diplomacy*. The ministers are often leading political figures at home, so they are clearly motivated by national political interests and, because they are also ideologically driven, Council decisions will be influenced by the relative weight of left-wingers, right-wingers and centrists. The authority of different ministers will also depend to some extent on the stability of the governing party or coalition in their home states. Finally, there is a difference of opinion about how ministers go about making their decisions, Warntjen (2010), for example, contrasting rational strategic choice ideas with norm-guided constructivist ideas, but concluding that more research is needed in order to better understand which theory most directly applies. All these factors combine to pull ministers in many different directions and to deny the Council the kind of consistency and regularity enjoyed by the Commission.