Council Decision of 22 March 2004 adopting the Council's Rules of Procedure (2004/338/EC, Euratom)

COUNCIL DECISION

of 22 March 2004

adopting the Council's Rules of Procedure

(2004/338/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 207(3), first subparagraph, thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 121(3) thereof,

Having regard to the Treaty on European Union, and in particular Article 28(1) and Article 41(1) thereof,

Whereas:

(1) According to Article 4 of the Treaty on European Union ‘the European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof’.

(2) In order fully to perform that function of providing impetus and defining the Union's general political guidelines the European Council agreed, at its meeting on 21 and 22 June 2002 in Seville, on a certain number of rules for the preparation, conduct and conclusion of its proceedings. In the cause of transparency and efficiency explicit mention should be made in the Council's Rules of Procedure of those organisational rules, which must be the subject of practical measures for the purpose of their implementation.

(3) It is important that the Council should follow rules on the organisation of its work which will allow it to make better use of the necessarily limited time available. To that end, on 18 March 2003 the Council adopted a code of conduct intended to improve the efficiency of the preparation and conduct of meetings of the Council and its preparatory bodies. That code of conduct should be incorporated in the Rules of Procedure in order to make it legally binding,

HAS DECIDED AS FOLLOWS:

SoleArticle

The Rules of Procedure of the Council of 22 July 2002 (2002/682/EC, Euratom)[(1)] shall be replaced by the following, which shall enter into force on 23 March 2004.
RULES OF PROCEDURE OF THE COUNCIL

Changes to legislation: *There are currently no known outstanding effects for the Council Decision of 22 March 2004 adopting the Council's Rules of Procedure (2004/338/EC, Euratom). (See end of Document for details)*

Article 1

Notice and venue of meetings

1 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[(2)].

2 Seven months before the beginning of its term of office, after consulting the Presidencies preceding and following its term of office, where appropriate, the Presidency shall make known the dates which it envisages for meetings that the Council will have to hold in order to complete its legislative work or take operational decisions.

3 The Council shall have its seat in Brussels. During the months of April, June and October the Council shall hold its meetings in Luxembourg[(3)].

In exceptional circumstances and for duly substantiated reasons, the Council or the Permanent Representatives Committee (Coreper), acting unanimously, may decide that a Council meeting will be held elsewhere.

Article 2

Configurations of the Council, role of the General Affairs and External Relations Council and programming

1 The Council may meet in different configurations according to the subject matter dealt with. The Council in its General Affairs and External Relations configuration (hereinafter 'General Affairs and External Relations Council'), convened in a meeting as referred to in paragraph 2(a), shall fix the list of these configurations, which is set out in Annex I.

2 The General Affairs and External Relations Council shall cover the following two main areas of activity, for which it shall hold separate meetings, with separate agendas and possibly on different dates, dealing respectively with:

a preparation for and follow-up to the European Council meetings, including the necessary coordination of all preparatory work, overall coordination of policies, institutional and administrative questions, horizontal dossiers which affect several of the Union's policies and any dossier entrusted to it by the European Council, having regard to operating rules for the Economic and Monetary Union;

b the whole of the Union's external action, namely common foreign and security policy, European security and defence policy, foreign trade, development cooperation and humanitarian aid.

3 For the purpose of preparing the meetings of the European Council, the General Affairs and External Relations Council convened in a meeting as referred to in paragraph 2(a) shall:

a draw up an annotated draft agenda on a proposal by the Presidency at least four weeks before the meeting of the European Council;

b hold a final preparatory meeting on the eve of the European Council meeting and approve the agenda.

Contributions to the proceedings of the European Council by other Council configurations shall be forwarded to the General Affairs and External Relations Council, convened in a meeting as referred to in paragraph 2(a), at the latest two weeks before the meeting of the European Council.

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Except for urgent and unforeseeable reasons linked, for example, to current international events, no other configuration of the Council or Council preparatory committee may meet between the final preparatory meeting referred to in paragraph 2(b) and the European Council meeting.

The measures necessary for the practical organisation of the European Council's proceedings shall be taken by the Presidency in liaison with the General Secretariat, in accordance with the rules on which the European Council itself has agreed.

4 The General Affairs and External Relations Council, convened in a meeting as referred to in paragraph 2(a), shall recommend to the European Council for adoption a multiannual strategic programme for the three years to come, which shall be based on a joint proposal drawn up by the Presidencies concerned, in consultation with the Commission.

5 In the light of that multiannual strategic programme, and following appropriate consultations, the two Presidencies due to hold office in the following year shall jointly submit a draft annual operational programme of Council activities during that year. The draft programme shall be submitted every year in December to the General Affairs and External Relations Council. The draft programme shall also have regard, *inter alia*, to relevant points arising from the dialogue on the political priorities for the year, conducted at the Commission's initiative. The two Presidencies concerned shall finalise the programme on the basis of the discussion of the General Affairs and External Relations Council convened in a meeting as referred to in paragraph 2(a).

6 The incoming Presidency shall establish indicative provisional agendas for Council meetings scheduled for the next six-month period, showing the legislative work and operational decisions envisaged. These indicative provisional agendas shall be established at the latest one week before the beginning of its term of office, on the basis of the annual operational programme and after consulting the Commission. Where necessary, extra Council meetings may be provided for, in addition to those previously planned.

Similar indicative provisional agendas for Council meetings scheduled for the six-month period following that referred to in the first subparagraph shall be established by the Presidency concerned, after consulting the Commission and the next Presidency, at the latest one week before the beginning of its term of office.

If during a six-month period any of the meetings planned during that period proves to be no longer warranted, the Presidency shall not convene it.

Article 3[4]

Agenda

1 Taking into account the Council annual programme, the President shall draw up the provisional agenda for each meeting. The agenda shall be sent to the other members of the Council and to the Commission at least 14 days before the beginning of the meeting.

2 The provisional agenda shall contain the items in respect of which a request for inclusion on the agenda, together with any documents relating thereto, has been received by the General Secretariat from a member of the Council or from the Commission at least 16 days before the beginning of that meeting. The provisional agenda shall also indicate by way of an asterisk the items on which the Presidency, a member of the Council or the Commission may request a vote. Such an indication shall be made once all the procedural requirements provided for by the Treaties have been complied with.

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3 Items relating to the adoption of an act or a common position on a legislative proposal or a proposal for a measure to be adopted in accordance with Title VI of the Treaty on European Union shall not be placed on the provisional agenda for a decision until the six-week period provided for in point 3 of the Protocol on the role of national parliaments in the European Union has elapsed.

The Council may unanimously derogate from the six-week period where the entry of an item is subject to the exception on grounds of urgency provided for in point 3 of that Protocol.

4 Only items in respect of which the documents have been sent to the members of the Council and to the Commission at the latest by the date on which the provisional agenda is sent may be placed on that agenda.

5 The General Secretariat shall transmit to the members of the Council and to the Commission requests for the inclusion of items in the agenda and documents in respect of which the time limits specified above were not respected.

If, by the end of the week preceding the week prior to a Council meeting, Coreper has not completed its examination of legislative items within the meaning of Article 7, the Presidency shall, unless considerations of urgency require otherwise and without prejudice to paragraph 2, remove them from the provisional agenda.

6 The provisional agenda shall be divided into Part A and Part B. Items for which approval by the Council is possible without discussion shall be included in Part A, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes.

7 The agenda shall be adopted by the Council at the beginning of each meeting. The inclusion in the agenda of an item other than those appearing on the provisional agenda shall require unanimity in the Council. Items entered in this way may be put to the vote if all the procedural requirements provided for by the Treaties have been complied with.

8 However, an ‘A’ item shall be withdrawn from the agenda, unless the Council decides otherwise, if a position on an ‘A’ item might lead to further discussion thereof or if a member of the Council or the Commission so requests.

9 Any request for the inclusion of an ‘other business’ item shall be accompanied by an explanatory document.

Article 4

Representation of a Council member unable to attend

Subject to the provisions of Article 11 on the delegation of voting rights, a member of the Council who is prevented from attending a meeting may arrange to be represented.

Article 5

Meetings

1 Meetings of the Council shall not be public except in the cases referred to in Article 8.

2 The Commission shall be invited to take part in meetings of the Council. The same applies to the European Central Bank in cases where it exercises its right of initiative. The

Council may, however, decide to deliberate without the presence of the Commission or of the European Central Bank.

3 The members of the Council and of the Commission may be accompanied by officials who assist them. The names and functions of those officials shall be notified in advance to the General Secretariat. The maximum number of persons per delegation in the Council meeting room at the same time, including members of the Council, may be laid down by the Council.

4 Admission to meetings of the Council shall be subject to the production of a pass delivered by the General Secretariat.

Article 6

Professional secrecy and production of documents in legal proceedings

1 Without prejudice to Articles 8 and 9 and to provisions on public access to documents, the deliberations of the Council shall be covered by the obligation of professional secrecy, except in so far as the Council decides otherwise.

2 The Council or Coreper may authorise the production for use in legal proceedings of a copy of or an extract from Council documents which have not already been released to the public in accordance with the provisions on public access to documents.

Article 7

Cases where the Council acts in its legislative capacity

The Council acts in its legislative capacity within the meaning of the second subparagraph of Article 207(3)of the EC Treaty when it adopts rules which are legally binding in or for the Member States, by means of regulations, directives, framework decisions or decisions, on the basis of the relevant provisions of the Treaties, with the exception of discussions leading to the adoption of internal measures, administrative or budgetary acts, acts concerning interinstitutional or international relations or non-binding acts (such as conclusions, recommendations or resolutions).

Where legislative proposals or initiatives are submitted to it the Council shall refrain from adopting acts which are not provided for by the Treaties, such as resolutions or declarations, other than those referred to in Article 9.

Article 8

Council deliberations open to the public and public debates

1 Council deliberations on acts to be adopted in accordance with the codecision procedure pursuant to Article 251 of the EC Treaty shall be open to the public as follows:

a the presentation by the Commission of its most important legislative proposals and the ensuing debate in the Council shall be open to the public. The list of such proposals shall be adopted at the beginning of each six-month period by the General Affairs and External Relations Council convened in a meeting as referred to in Article 2(2)(a), on a recommendation from the Presidency, after consulting the Commission;

b the vote on legislative acts shall be open to the public, as well as the final Council deliberations leading to that vote and the explanations of voting accompanying it[(5)].