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Asia:	**"Simplification of the legislative and budgetary procedures of the European Union"** **– Valmistelukunnan jäsenen sijaisen Marta Foglerin ja valmistelukunnan jäsenen Edmund Wittbrodtin esitys**

Valmistelukunnan jäsenen sijainen Marta Fogler ja valmistelukunnan jäsen Edmund Wittbrodt ovat toimittaneet valmistelukunnan pääsihteerille liitteenä olevan esityksen.

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ANNEX

Simplification of the legislative and budgetary procedures of the European Union

Contribution concerning legislative procedures of the European Union

by Marta Fogler (deputy) and Edmund Wittbrodt,
Representatives of the Polish Parliament to the European Convention

Main problems, that the decision – making process in the European Union must cope with, are as follows:

- **There are too many legislative procedures and their variants – understanding decision – making process in The EU is very difficult**
- **The procedures are too complex and complicated**
- **The legislation process lasts too long**
- **The European Parliament does not play a sufficient role in the decision – making process and in composing the EU budget**
- **We face the democracy deficit**

Legislative procedures

In order to solve above – mentioned matters, we have decided to focus on following changes:

1. **Complete abolishment of the unanimous voting in the Council within the codecision procedure**
2. **Changing the composition of the codecision procedure by elimination the Conciliation Committee phase**
3. **Replacing the cooperation procedure by the codecision procedure**
4. **Reducing unanimity in the Council and replacing it both by the qualified majority voting system and moving larger number of cases to the codecision procedure**
5. **Reducing the number of procedures (it results from other modifications)**

1. Standardisation of the codecision procedure – unanimity abolishment.

The qualified majority voting system should refer to those cases, which now require unanimous voting in the Council within this procedure.

- Within the codecision procedure qualified majority voting system refers to almost all cases but there are some exceptions provided for codecision together with unanimity voting rule. This involves Article 18(2) of the TEC (provisions with a view to facilitating the exercise of the right of citizens to move and reside freely within the territory of the Member States), Article 42 TEC (social security for migrant workers), Article 47(2) TEC (taking – up and pursuit of activities as self – employed persons) and Article 151(5) TEC (culture). At the Nice Intergovernmental Conference, the Presidency proposed to introduce the rule of qualified majority voting in above – mentioned provisions. The Conference however followed up these suggestions only in case of Article 18(2).
- We have decided to include other three matters (Articles 42, 47 and 151 TEC) in qualified majority voting system as well. We would like to emphasise that some other similar matters, such as social policy matters, free movement of employees and education, are already subjected to majority voting rules. This solution is believed to have its effective use also in this case.
- It would enable both standardisation of the codecision procedure and elimination of one of the procedural variants.

2.Simplification of the codecision procedure

We have decided to simplify the codecision procedure, which appears to be too complicated and lasts too long (about 10 and a half months) – look at Scheme 1.

The new composition of the codecision procedure may be described as follows:

The Commission submits a proposal of the act to the European Parliament[1] to the first reading. Within maximum one – month time, the EP delivers an opinion on this proposal and possible amendments to the Council. The Council may (within one – month time):

- approve the act with QMV[2], if the EP does not make any amendments
- approve the act with the EP amendments:
    - with QMV if the act has a positive Commission's opinion

[1] The Parliament always acts with an absolute majority.

[2] QMV – Qualified Majority Voting

- with unanimity if the act has a negative Commission's opinion
- state a "common position" (introduce its own amendments)

The Council forwards its "common position" to the Parliament to the second reading and the EP may (within one month):

- accept the „common position" or not react, then the act is adopted
- reject the „common position", then the act is not adopted
- introduce the amendments to the „common position", then the act is forwarded again to the Council

Then the Council has a month to:

- reject the act with unanimity if the Commission gives its positive opinion
- accept the act unanimity if the Commission gives its negative opinion

Arguments in favour of changing the codecision procedure

- significant simplification and shortening of the procedure
- shortening of the legislation period - from about 10,5 to 4 months with strict time limits
- improving the efficiency of the work of each institution by eliminating the Conciliation Committee, whose work lasted until now about 18 weeks. We believe that shortening the procedure and including the Commission in the first reading will enable reaching the agreement without engaging the Committee.
- strengthening the co-operation among the three institutions
- including the Commission during the whole course of the procedure will effectively replace the work of the Conciliation Committee (its opinions have an important meaning in our proposal)
- in our project the Council cannot easily reject the proposal approved by the Parliament and positively judged by the Commission, in this way we strengthen democratisation in decision making process

3. Replacing the cooperation procedure by the codecision procedure

- The cooperation procedure at the moment refers only to economic and monetary policy (which was previously limited in the Treaty of Amsterdam). The main difference between the codecision procedure and this procedure is the weaker role of the Parliament in the latter (the act rejected by the Parliament with an absolute majority may be adopted by the Council). In the Nice IGC the European Commission proposed the introduction of the codecison procedure

to all legislative acts. Although it was not accepted, the use of the codecision procedure was enlarged.

- By eliminating the cooperation procedure we reduce the number of procedures and their variations and we also enlarge the role of the Parliament. It allows further democratisation and the Union will be become closer to the its citizens.

Arguments in favour of the elimination of the cooperation

- Reduction of the number of the existing procedures
- Improving the transparency and legibility of the EU procedures
- Its main disadvantage is too weak role of the Parliament in the legislative process, which has a significant influence on deepening of the democracy deficit.
- Increasing the EP's role in shaping the legislation in the area of the economic and monetary union, which is now the only field covered by this procedure
- Strengthening the importance of the EP among the three institutions

4. Reducing the unanimity in the Council and replacing it by QMV rule. Moving some cases to the codecision procedure.

- At the Nice IGC the general tendency to replacing the unanimity in the Council has been noticed. It referred especially to the cases subjected to unanimity with a simple consultation and to unanimity without the participation by the Parliament. In addition, in some cases the unanimity with a simple consultation was replaced by QMV with codecision.
- We have decided to continue the tendency to eliminate the unanimity within the Council, particularly in the matters referring to the internal market. In our opinion, sustaining the unanimity rule in the Council in the Union enlarged to above 20 members, especially in the cases concerning the internal market, will threaten with interlocking the decision – making process. We have decided moreover to move some matters to the codecision procedure as more democratic and guaranteeing the EP an equal position in the legislation process. It refers to questions subjected to the following procedures of the Treaty of the European Community:
  - **QMV with the simple consultation**
    - Article 52(1) – liberalisation of services – introducing the codecison procedure because this question refers to the internal market
    - Article 83 – adoption of regulations on competition – introducing the codecision, as above.
    - Article 166(4) and article 172(1) – specific research programmes, research, setting

up of joint undertakings – giving this matter to the EP will guarantee more effective implementation of Lisbon Strategy (in regard to increase in spending on research)

- **Unanimity with the assent procedure**
  - Article 107(5) – amendment of the Protocol on the Statute of the ESCB and of the ECB – we believe that it is necessary to introduce the QMV in the Council, no matter if the ECB gives a recommendation or the Commission gives a proposal (until now this procedure referred only to the previous case)
  - Article 161 – Structural Funds and Cohesion Fund – we are in favour of the Nice IGC changes (QMV from 2007 and adoption of the financial perspective)
  - Article 190(4) – elections in accordance with a uniform procedure – introduction of QMV because it will simplify decision making in the enlarged EU and create further possibilities to unify the electoral system
  - Article 214 – special procedure: nomination and appointment of President of the Commission and its members – we are in favour of the Nice Treaty - QMV

- **Unanimity with simple consultation**
  - Article 13(2) – adoption of appropriate measures to combat discrimination – we support the Treaty of Nice (QMV with the codecision), which enables more effective use of these measures
  - Article 19(1) – citizenship: right to vote and to stand as a candidate – change to QMV because it will create opportunities to broaden the electoral law and will eliminate the inequality existing in this matter among countries
  - Article 67(1) – measures to establish an area of freedom, security and justice – we support the Nice Treaty amendments: transferring some matters to QMV with the codecision procedure (article 65, 63, 62(2)(a) and 62(3)) and QMV with consultation of the EP (article 66)
  - Article71(2) – exception of the provisions concerning transport, which could have a serious effect on the standard of living and on employment – we are in favour of the elimination of the whole 2nd paragraph because it creates possibility of exceptions in the field of free competition in the transport policy
  - Article 94 – harmonisation of laws, which influence directly the internal market – we believe that QMV should be applied because it will improve the functioning of

the internal market.

- Article111(4) – decision concerning the external representation of EMU – we are in favour of the Nice proposal of the introduction of QMV, which unifies Article 111 and eliminates unclearly defined exceptions
- Article 133(5) – commercial policy: extension to agreement on services and intellectual property – we accept the general tendency of the Nice IGC, that is including the matters of services and intellectual property and introduction of QMV but we propose to implement QMV to the whole article to unify it.
- Article 157(3) – industry – we introduce QMV to improve use specific measures supporting activities of member states in ensuring competitiveness of EU industry.
- Article 159 – measures to achieve economic and social cohesion – we support the Nice proposal to transfer this question to QMV with the codecision procedure, which will improve management of the EU measures in this field.
- Article 245 – an amendment of the Statute of the Court of the Justice – we postulate introduction of QMV to simplify implementation of amendments.
- Article 247(3) – appointment of the members of the Court of Auditors – we are in favour of the Nice amendments – QMV. We trust as well that the same rule should be applied to the appointment of judges of the Court of Justice and Court of the First Instance in regard to further simplification
- Article 279 – adoption of the financial regulations – we propose QMV system in accordance with the Nice Treaty.

- **Unanimity without participation by the Parliament**
  - Article 100(1 and 2) – member state aid in special circumstances – we support the Nice changes, it guarantees an effective reaction in case of special circumstances out of the member state's control and unifies the whole article.
  - Article 151(5) second indent - culture – in accordance with our previous proposal the whole article 151 is subjected to QMV with codecision.
  - Article 187 – adoption of provisions as regards the detailed rules and the procedure for the association of the overseas countries and territories with the Community – we postulate introducing QMV with codecison because it enables to guarantee the interests of the whole Community and not particular countries (e.g. previous colonial states)
  - Article 207(2) – appointment of the Secretary -General (High Representative for

the CFSP) and the Deputy Secretary–General of the Council – we propose to move the common foreign policy to the Commission by consolidating the High Representative position with the Commissioner for external relations. In this way the Union would gain a uniform representation in international relations. The new Commissioner would be the chief of the Union's diplomacy. Meanwhile we leave the issues of security and defence in the Council (ESDP).

- Article 223 – approval of the rules of procedure of the Court – we approve the Nice decision concerning the introduction of QMV and placing this matter in the Statute of the Court of Justice because we do not support regulating the technical matters in the Treaties.
- Article 224 – approval of the rules of Procedure of the Court of Justice – we support the Nice decision approving procedural rules fur functioning the Court of the First Instance and introducing QMV to prepare it to new challenges
- Article 258 (second paragraph) – appointment 0f the members of the Economic and Social Committee and determination of their allowances – we approve the Nice decision because this solution will prepare the Union enlargement by increasing the number of the Committee members and simplifying their appointment (QMV)
- Article 263 (third paragraph) – appointment of the members of the Committee of the Regions and their alternates – as above
- Article 290 – establishment of the rules governing the languages of the institutions of the Community – we propose to introduce QMV to improve adoption of changes to these rules after the enlargement

5. Reducing the number of the procedures

After implementing above – mentioned changes, the variants of the procedures will be as follows:

- **QMV in the Council with codecision** – reshaping the composition of the procedure, adding both matters subjected to unanimous voting with codecision and the whole cooperation procedure and several cases subjected to other procedures (point 4)
- **QMV with simple consultation** – moving several cases to codecision
- **QMV with cooperation** – eliminating this procedure
- **QMV with assent** - no changes
- **QMV without the participation by the Parliament** – no changes

- **Unanimity with codecision** – abolishing and changing to QMV with codecision
- **Unanimity with assent** - several cases will be subjected to QMV
- **Unanimity with simple consultation –** as above.
- **Unanimity without participation by the Parliament –** as above

Proposed solutions lead to reducing the number of the variants of procedures from nine to seven and to democratisation of the Union's decisions (smaller number of cases will be subjected to unanimous voting in the Council and the codecision procedure will be broader applied)

The Budget Procedure

The budget procedure (look at scheme 2) lasts from September 1 till the end of the preceding year for which the budget is adopted. The Commission proposes the preliminary budgetary draft, which is forwarded to the Council before the end of September. The Council has a right to introduce its amendments with QMV. This version is submitted to the Parliament as "a budget project" – till 5th October. In the Parliament the first reading takes place, within 45 days. The EP may:

- propose its corrections to Compulsory Expenditure with an absolute majority of its members (without changes in its size)
- change Non-compulsory Expenditure with a majority of its members
- not take any position – the budget is adopted.

If the EP introduces its corrections or changes the Council has 15 days to give its positions. If it accepts the EP's amendments – the budget is adopted. If it rejects them or implements its own amendments, the project is submitted to the Parliament about 22nd November (second reading)

The Parliament may:

- with a majority of its members and three – fifths of its votes reject or change new elements introduced by the Council (it refers only to NCE[1])
- not react which means adoption of the budget
- reject the budget with a majority of its members and two – thirds of the votes (it means opening the new budget procedure)

[1] NCE – non - compulsory expenditure

The President of the EP closes the budget procedure by signing it in middle of December, which means a final budget adoption.

Comparing the budgetary procedure with the codecision procedure, it seems that the first one is much more simple and transparent. Moreover this procedure leaves the last word to the EP. In regard to this, we believe that the present composition of this procedure should be maintained. Our proposal refers only to the phase, where the division of the expenditure between compulsory (which are the key matters for the Community, e.g. Common Agriculture Policy and structural funds) and non-compulsory exists. The proposed changes lead to simplification of the procedure in its limited area, but it has a significant meaning for strengthening the EP.

Our main proposal focuses on eliminating the division of expenditure and unifying it. It would be treated as non-compulsory are now. So the EP would have the possibility to change its size. At the moment large part of the expenditure is out of the control of the EP.

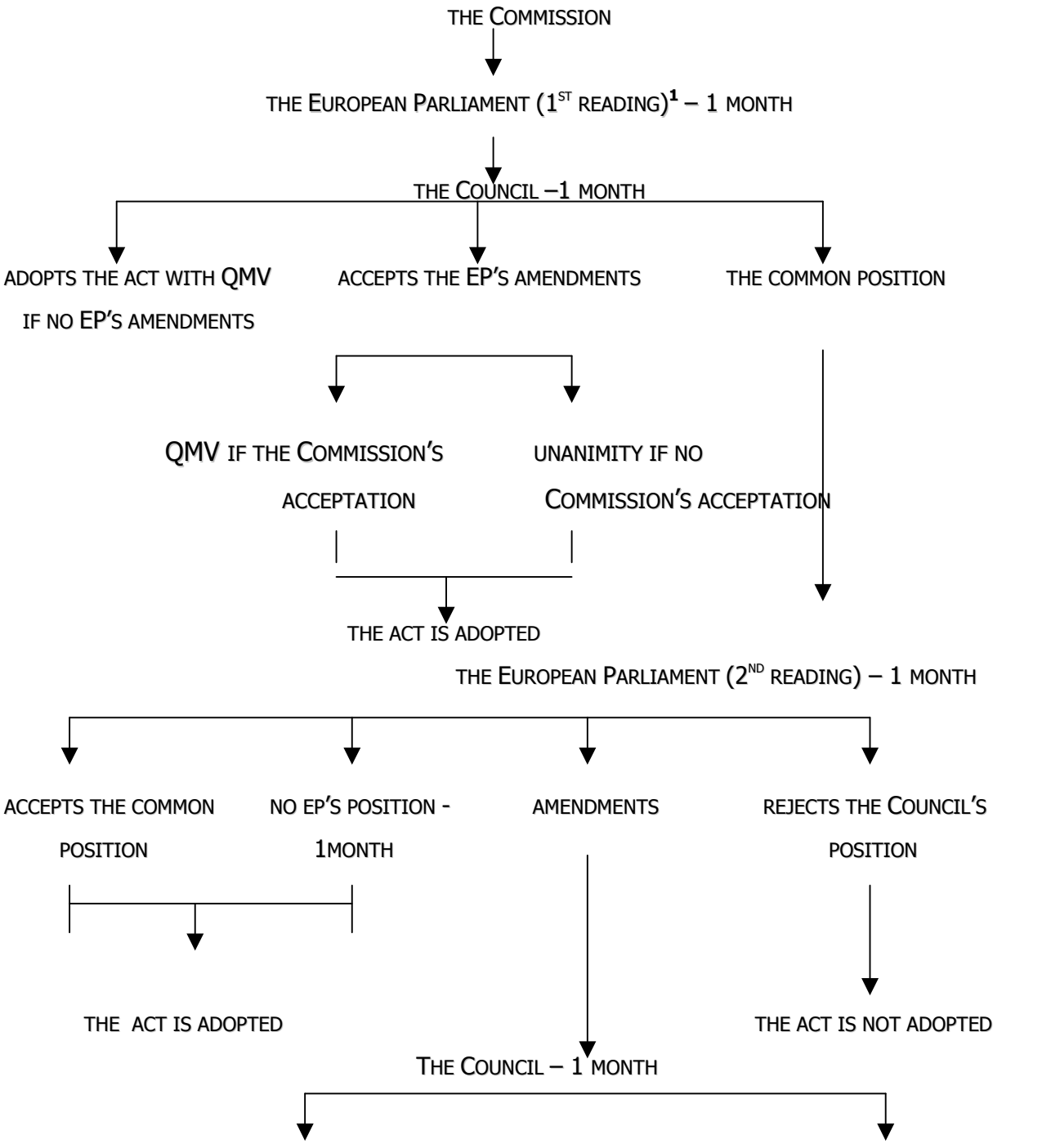
We think that maximum rate of increase (it is defined every year to limit the pace of increase of EU expenditure) should be maintained because it limits the role of the EP and the Council in this field of changing the budgetary expenditure. In particular cases, if the EP, the Council or the Commission will decide together that Community's activity requires exceeding this rate, another rate can be defined by the agreement of the EP and the Council.

Our proposals lead to:

- maintain the budgetary procedure in its original shape with small simplifications
- eliminate the existing division of the expenditure
- increase the role of the EP in shaping the budget, thanks to unifying the structure of expenditure the EP may at present change also previous compulsory expenditure
- maintain maximum rate of increase because there is need to maintain the budgetary discipline in the increasing expenditure

SCHEME 1.

CODECISION PROCEDURE



[1] The Parliament always acts with an absolute majority.

SCHEME 2.

BUDGET PROCEDURE

[1] CE – Compulsory Expenditure
[2] NCE – Non – Compulsory Expenditure